"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for January are being accepted for the free Wednesday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m. Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

SUNSHINE ACT MEETINGS

OFFICE OF ADMINISTRATION
Executive order activating establishment of Office in Executive Office of the President

AIR POLLUTION
EPA designates three methods for measuring concentrations of NO₂ in the air.
EPA proposes requirements for the implementation of the national ambient air quality standards for lead, and schedules a public hearing for 1-17-78; comments by 2-17-78 (Part V of this issue) (2 documents).

PESTICIDE PROGRAM
EPA establishes maximum permissible levels for residues of the subject herbicide on various raw agricultural commodities; effective 12-14-77.
EPA issues a rebuttable presumption against registration and continued registration of pesticide products containing Ethylene Dibromide (EDB); comments by 1-30-78 (Part VII of this issue).

MINERAL MANAGEMENT
Interior/NPS proposes to reorganize current regulations regarding the exploration and development of mineral resources within any unit of National Park Service; comments by 1-20-78 (Part III of this issue).

THERMAL INSULATION
Commerce/Secy announces a need to develop labeling standards for home insulation; effective 12-14-77.

CABLE TELEVISION
FCC extends application of certain rules to prevent interference of aeronautical radio frequencies; effective 1-1-78.
AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

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Documents normally scheduled for publication 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:**
- Subscription orders (GPO) 202-783-3238
- Subscription problems (GPO) 202-275-3050
- "Dial a Regulation" (recorded summary of highlighted documents appearing in next day's issue). 202-523-5022
- Scheduling of documents for publication. 523-3187
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List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the Federal Register. Copies of the laws in individual pamphlet form (referred to as “slip laws”) may be obtained from the U.S. Government Printing Office.

H.J. Res. 662 Pub. L. 95–205

H.R. 1904 Pub. L. 95–206
To suspend until July 1, 1980, the duty on intravenous fat emulsion, and for other purposes. (Dec. 12, 1977; 91 Stat. 1462). Price: $.50.
Executive Order 12028

December 12, 1977

Office of Administration in the Executive Office of the President

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, Reorganization Plan No. 2 of 1970 (5 U.S.C. App. II), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Reorganization Plan No. 1 of 1977 (42 FR 56101 (October 21, 1977)), and as President of the United States of America, in order to effectuate the establishment of the Office of Administration in the Executive Office of the President, it is hereby ordered as follows:

Section 1. The establishment, provided by Section 2 of Reorganization Plan No. 1 of 1977 (42 FR 56101), of the Office of Administration in the Executive Office of the President shall be effective, as authorized by Section 7 of that Plan, on December 4, 1977.

Sec. 2. The Director of the Office of Administration, hereinafter referred to as the Director, shall report to the President. As the chief administrative officer of the Office of Administration, the Director shall be responsible for ensuring that the Office of Administration provides units within the Executive Office of the President common administrative support and services.

Sec. 3. (a) The Office of Administration shall provide common administrative support and services to all units within the Executive Office of the President, except for such services provided primarily in direct support of the President. The Office of Administration shall, upon request, assist the White House Office in performing its role of providing those administrative services which are primarily in direct support of the President.

(b) The common administrative support and services provided by the Office of Administration shall encompass all types of administrative support and services that may be used by, or useful to, units within the Executive Office of the President. Such services and support shall include, but not be limited to, providing support services in the following administrative areas:

1. personnel management services, including equal employment opportunity programs;
2. financial management services;
3. data processing, including support and services;
4. library, records, and information services;
5. office services and operations, including: mail, messenger, printing and duplication, graphics, word processing, procurement, and supply services; and
6. any other administrative support or service which will achieve financial savings and increase efficiency through centralization of the supporting service.

(c) Administrative support and services shall be provided to all units within the Executive Office of the President in a manner consistent with available funds and other resources, or in accord with Section 7 of the Act of May 21, 1920 (41 Stat. 613), as amended (31 U.S.C. 686, referred to as the Economy Act).

Sec. 4. (a) Subject to such direction or approval that the President may provide or require, the Director shall:

1. organize the Office of Administration;
2. employ personnel;
3. contract for supplies or services; and

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(4) do all other things that the President, as head of the Office of Administration, might do.

(b) The Director shall not be accountable for the program and management responsibilities of units within the Executive Office of the President; the head of each unit shall remain responsible for those functions.

Sec. 5. The primary responsibility for performing all administrative support and service functions of units within the Executive Office of the President shall be transferred and reassigned to the Office of Administration; except to the extent those functions are vested by law in the head of such a unit, other than the President; and except to the extent those functions are performed by the White House Office primarily in direct support of the President.

Sec. 6. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned by this Order from units within the Executive Office of the President to the Office of Administration, shall be transferred to the Office of Administration.

Sec. 7. (a) The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

(b) Such transfers shall become effective on April 1, 1978, or at such earlier time or times as the Director of the Office of Management and Budget determines, after consultation with the Director of the Office of Administration and other appropriate units within the Executive Office of the President.


[FR Doc.77-35774 Filed 12-12-77; 3:37 pm]
Amendments to Entitlements Program to Reduce Entitlement Obligations for Lower Tier Crude Oil Produced in California

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V. Procedures With Respect to Exception Applications
VI. Further Proceedings

On March 17, 1977, the Federal Energy Administration (FEA) issued a notice of proposed rulemaking and public hearing (42 FR 15419, March 22, 1977) which proposed amendments to the entitlements program to reduce entitlement obligations for lower tier crude oil producers. The amendments proposed were intended to compensate for the quality differentials in ceiling prices for lower tier crude oil producers. The amendments were designed to ensure that refiners were paid the full current ceiling prices for their crude oil. Although PADD V upper tier crude oil producers have, at least until recently, been receiving close to ceiling prices, 20 degrees API gravity, lower tier crude oil in California has been selling at approximately 54 cents per barrel below current ceiling prices. March 1977 Proposal

The entitlements program is based on national average prices for each of the three pricing categories (i.e., lower tier, upper tier, and exempt domestic and imports). Thus, the entitlement obligation for lower tier crude oil purchased in any given month is the same dollar amount for each barrel purchased, regardless of variations in quality and selling prices. Quality differences continue to be reflected through the ceiling prices, which are adjusted to reflect current relative market values of such differentials. On October 29, 1976, FEA adopted amendments (41 FR 48324, November 3, 1976) that provided that the ceiling price for lower tier crude oil is determined by the market value of such oil and that it is adjusted to reflect the quality differentials in ceiling prices for lower tier crude oil producers. On November 3, 1976, the price for lower tier crude oil was increased by 2 cents per barrel for each degree API gravity that such oil falls below 40 degrees API gravity, down to 34 degrees API, and by 3 cents per barrel for each degree API gravity that it falls below 34 degrees API gravity. FEA recognized that to the extent market conditions were continuing to change, actual gravity differentials might not decrease when ceiling prices were raised. FEA at that time stated: If the current market does determine that gravity differentials should be greater than used in calculating the revised ceiling price rules issued today, such increased gravity price differentials could result in producers’ not being able to obtain the full amount of the revised ceiling prices, due to the operation of the entitlements program in conjunction with the lower relative value ascribed to such heavy gravity crude oil by the market. FEA will, therefore, continue to monitor the market situation with respect to changes in gravity differentials for heavy gravity California crude oil and the relationship of the entitlements program to prices offered for such lower tier crude oil. To the extent that the adjustments made today fail to provide adequate production incentives to maintain maximum feasible rates of production for any California heavy crude oil, FEA will consider and take whatever further steps may be appropriate within its statutory authority to assure that such domestic crude oil production continues at maximum levels (41 FR 48325, November 3, 1976).

As set forth in the March 17 notice, since the implementation of the October gravity differential adjustment amendments, data indicate that PADD V producers of lower tier crude oil have generally not obtained the revised ceiling prices for their crude oil. Although PADD V upper tier crude oil producers have, at least until recently, been receiving close to ceiling prices, 20 degrees API gravity, lower tier crude oil, a representative of low gravity crude oil, has been selling at approximately 54 cents per barrel below current ceiling prices.
RULES AND REGULATIONS

Pursuant to the above provision, this rulemaking proceeding, begun by the FEA prior to the activation of the DOE, was continued and transferred to the DOE.

In addition, by DOE Delegation Order No. 0204-4, the Secretary of Energy delegated to the Administrator of the ERA the authority to take such action, including the production rules, as is necessary and appropriate to administer several functions, among which are the allocation and pricing of crude oil and refined petroleum products, pursuant to the provisions of the Emergency Petroleum Allocation Act of 1973, as amended. It is under the authority of this Delegation Order that the ERA is adopting the amendments to the entitlements program set forth below.

II. DISCUSSION OF COMMENTS

Written comments were invited on the proposal through April 12, 1977, and twenty-six such comments were received. In addition, nineteen persons testified at the public hearings on the proposal which were held in San Francisco, Calif., on April 14, 1977, and in San Francisco, Calif., on April 15, 1977. The commenters included large, major independent, and small refiners, independent producers, transportation trade associations, the consumer affairs office of a Federal agency, a labor union, State and local governments, and an electric utility.

The majority of the comments, whether they supported or opposed the proposal, contained information tending to confirm FEA's preliminary conclusion that California producers of lower tier crude oil which, because of its low gravity and high sulphur content, is considered undesirable by many refiners. There was also opposition to the proposal on the grounds that refiners are restricted by price controls in the State of California to the use of high sulphur residual fuel oil, due to the severe air quality problems existing in that State. In processing the heavy, sour crude oil which comprises the larger portion of California production, a relatively large quantity of high sulphur residual fuel oil is obtained that cannot be marketed in California. Thus, environmental requirements further reduce the attractiveness to refiners of California heavy, high sulphur crude oil, widening the quality differentials. As currently structured, the entitlement program does not take these changing circumstances into account.

Transfer of Functions

Effective October 1, 1977, all functions previously performed by the FEA were transferred to the DOE (Department of Energy Organization Act, Pub. L. 95-91, DOE Act, 42 FR 46267, September 15, 1977). Section 705(b)(1) of the DOE Act provides in part that:

The provisions of this Act shall not affect any proceedings * * * pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings * * * to the extent that they relate to functions so transferred, shall be continued * * *
ties across the Rocky Mountains, the market for California production is con-
ined largely to California refineries, where it is mixed with high gravity, 
low sulphur imported crudes and, more 
recently, an enormous influx of crude oil 
from Alaska's North Slope.

A further complicating factor is that 
there are currently no formal or 
legislative proposals to deal with the 
problem of depressed California crude oil 
prices, but they would become fully ef-
effective only over a period of years. The 
House-passed version of the National 
Energy Act (H.R. 8444) contains a 
“variable” crude oil equalization tax. In 
general, the crude oil equalization tax 
paid by the President would place a 
wellhead tax on all domestically pro-
duced crude oil to raise its effective price 
to refiners to world market levels. When 
fully effective, by imposing different 
amounts of tax at the different con-
trolled price tiers, it would equalize 
crude oil prices for a given classification of 
the tax.) The phasing of the tax thus 
ket price for a given classification of 
phasing out as it is gradually replaced by 
would provide.

RATIONAL FOR AMENDMENTS ADOPTED

Based on the record in this proceed-
ing and ERA's statutory mandates, the 
ERA believes it is necessary to amend the 
entitlements program to provide refineries 
added incentives to purchase low gravity 
lower tier crude oil produced in Cali-
ifornia. On balance, the inability of the 
current entitlements program to be re-
sponsive to changing market conditions 
is the principal factor that is depressing 
prices of California crude oils below ceil-

The information provided in this 
proceeding, as well as meritorious applica-
tions for exception relief that continue 
to be filed with the ERA by producers 
and refiners of California heavy crude oil, 
suggest that current depressed prices are caus-
ing or are likely to cause in the near 
future substantial volumes of California 
heavy oil to remain non-participating. Due 
to the mechanics of the reservoirs 
and recovery methods involved, once produc-
tion is shut in or the opportunity to 
apply enhanced recovery methods is fore-
taken, the oil is lost forever, regardless what 
future price incentives to produce it might be. The 
regulation of flowing oil is appropriate 
and necessary in order to deny unearned 
erents and excessive profits. However, 
here the information available to the 
ERA indicates that the combination of 
ceiling prices and entitlement regu-
lations (as well as independent economic 
and market factors) prevents producers 
from realizing the ceiling prices them-
(though the record indicates that current 
depressed valuations of such differentials * * * (Sec.

While the action taken today will not 
change ceiling prices, it is apparent that 
in order for current ceiling prices for 
heavy California crude oil to be realized 
fully—which clearly was Congress' in-

tent in enacting Section 123 of the 
ECPA—the modifications to the entitle-
ments program adopted here are neces-

The amendments the ERA is adopting 
today will, effective for crude oil re-

ticipated on January 1, 1978 and thereafter, 
reduce entitlement obligations for lower 
tier crude oil produced in California by 
$1.74 per barrel. The ERA has arrived 
at this amount the result of hearings 
and net after-entitlement acquisition 
prices of California heavy crude oils in gravity and sulphur 
content. After adjusting for entitlement 
obligations, the net acquisition cost of 
refiners that purchase lower tier Hunt-

The following table shows the ERA's 
calculations for a recent period of the 
entitlements program disincentives ap-
plicable to purchasers of lower tier 
California crude oil at various gravity 
levels as compared with comparable 
imported or stripper crude oil also traded in 
that State. It should be noted that 
the table does not show average short-
falls in producers' realizations of their 
ceiling prices, which are substantially
lows than the entitlement program disincentives shown.

As shown in the table, the greatest disparity in net acquisition costs exists at the very low gravity level; as the gravity of the crude oil increases, the differential decreases. In addition, the ERA’s data show that most lower tier California production of 26° API gravity and above is selling at its ceiling price, despite the existence of entitlement “penalties” of as much as $1.44 per barrel for the purchase of such oil. Since the principal purpose of the amendments adopted today is to assure that producers will realize their full incentives shown.

The FEA has not concluded that the entitle-
ments treatment for ANS crude oil adopted
is necessary to provide incentives to complete
development of the main Prudhoe Bay Pool. Nor is it entirely clear that such incentives are necessary to provide incentive to ANS producers to proceed with the development of the Usiborane and Kuparuk Fields in the Prudhoe Bay Area and the North Slope. But by providing ANS crude oil with wellhead prices that are as high as possible (consistent with the upper tier ceiling price, the remoteness of the area and the cost of the imported oil it is replacing), the maximum monetary and psychological incentives are provided for these and other producers to explore aggressively elsewhere in the Arctic and in other frontier regions.

The ERA has determined from the evidence in the record and other evidence available to it that it would be appropriate to provide for application of the entitlement relief given for California lower tier, heavy, lower tier crude oil produced in California and because imported crude oil marketed in PADD V will so.

The March 17 proposal, the Trans-Alaska Pipeline has become operational and has been delivering about 2,700,000 barrels per day to Valdez on the southern coast of Alaska. In March 1977, when a pump station that was destroyed by fire will be replaced, the pipeline will make a total of 1.2 million barrels a day available as a potential feedstock for West Coast refineries. Although it is domestic oil and subject to upper tier ceiling prices, the FEA concluded that the costs of transporting North Slope oil to the lower 48 states were so extraordinarily high that import tier entitlement treatment had to be provided to it in order to assure equitable prices at the wellhead relative to other upper tier oil produced in less remote areas. An amendment to the en-
titlement program to that effect was issued on August 11, 1977 (42 FR 41565, August 17, 1977).

Since Alaskan North Slope oil became available, there have been allegations that North Slope producers are in effect discounting their price on the West Coast, in order to avoid the additional transportation costs of shipping it through the Panama Canal to Gulf Coast refineries. The potential to do so certainly exists, since by virtue of the additional transportation costs, the wellhead prices are estimated to be about $2.00 per barrel less for North Slope oil shipped to the Gulf as opposed to the West Coast. Whether or not discounting is occurring, however, it is apparent that this substantial increase to the West Coast’s crude oil supply has further soft-
ed prices for the California heavy crude oil with which it competes.

The March 17 notice recognized that the arrival of North Slope crude oil production might require modification of the adjustments proposed at that time, and requested comments as to whether it is likely that the Northern Slope Alaskan crude oil marketed in PADD V will so affect market conditions for PADD V production, that delay or modification of these proposed adjustments would be appropriate.” (42 FR 15426, March 29, 1977). In addition, in adopting the final rule on the North Slope oil entitlements, the FEA said:

Thus, import tier entitlements treatment, while it leaves ANS producers at a wellhead price disadvantage compared to producers of upper tier crude oil in the rest of the U.S., is more in accord with the statutory mandate for equitable pricing of crude oil in various regions of the country than would be the entitlement treatment.

Finally, it is appropriate to include North Slope crude oil with import tier entitlements as necessary to provide incentives to complete development of the main Prudhoe Bay Pool. Nor is it entirely clear that such incentives are necessary to provide incentives to ANS producers to proceed with the development of the Usiborane and Kuparuk Fields in the Prudhoe Bay Area and the North Slope. But by providing ANS crude oil with wellhead prices that are as high as possible (consistent with the upper tier ceiling price, the remoteness of the area and the cost of the imported oil it is replacing), the maximum monetary and psychological incentives are provided for these and other producers to explore aggressively elsewhere in the Arctic and in other frontier regions.

The proposed adjustments, which include increasing the wellhead prices for ANS crude oil as high as possible (consistent with the upper tier ceiling price, the remoteness of the area and the cost of the imported oil it is replacing), the maximum monetary and psychological incentives are provided for these and other producers to explore aggressively elsewhere in the Arctic and in other frontier regions. 

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The current amount of lower tier California production that is expected to receive entitlement relief is estimated at 362,000 barrels per day. By adding an estimated 700,000 barrels per day of North Slope crude oil from Alaska and North Slope Coast to imports, the amount of entitlement burden imposed per barrel will be less than one-third the amount it would otherwise be, if only imports were subject to the penalty.

The March 17 proposal provided that the reduction in entitlement obligations as an incentive for receipts of lower tier crude oil would be applicable to all lower tier crude oil produced in California, Arizona, California, Nevada, Oregon, and Washington. Similarly, the offsetting reduction in entitlement benefits issued was proposed to be applicable to all refineries located in those same states that ran imported crude oil. Based on the revenue and demand data for California and its refineries, the ERA has determined that the reduction in entitlement obligations will be applicable to any refiner, wherever located, that receives lower tier crude oil produced in the State of California, with a gravity of 25.9° API or below. Since only de minimis amounts of California oil are refined elsewhere, virtually all of the refineries affected will be located within the State of California. The ERA's data show that producers of lower tier crude oil in Southern Alaska are realizing their full ceiling prices, and that the volumes of low gravity, lower tier crude oil produced in Arizona, Nevada, Washington and Oregon are negligible and do not require the relief afforded to California heavy crude oil. As for the offsetting cost of providing the incentives for California lower tier crude oil, the ERA has determined to modify the proposal and limit the reduction in entitlement benefits provided to imported and Alaskan North Slope crude oil only to such oil that is refined to modify the proposal and limit the aggregate amount which would offset the total increase in entitlement issuances deriving from the benefits given to refiners of lower tier crude oil produced under § 211.67(a) (4) (i). For every barrel of imported or Alaskan North Slope crude oil a refiner receives at a California refinery in a month, it will lose a fraction of an entitlement equal to the total number of additional entitlements issued pursuant to § 211.67(a) (4) (i) in that month, divided by the total number of barrels of imported and Alaskan North Slope crude oil received in that month by all refineries in California. The per barrel penalty on imported and Alaskan North Slope crude oil could vary greatly from month to month, depending on the receipt of crude oils and on their volumes relative to those of California lower tier crude oil receipts.

CRUDE OIL EXCHANGES (§ 211.67 (a) (4))

With respect to exchanges or matching purchases and sales of crude oil to which the provisions of 10 CFR 211.67 (g) would apply, ERA is adopting a conforming amendment in a new § 211.67(g) (6). In any such exchange or matching sale and purchase transaction where a refiner acquires crude oil derived from the benefits given to refiners and Alaska North Slope crude oil in a California refinery, such imported or Alaska North Slope crude oil would give rise to a reduction in entitlement issuances under 10 CFR 211.67(a) (4) (ii) at the same time that such crude oil would constitute a crude oil receipt attributable to a refinery located in California, notwithstanding the fact that such crude oil would at the same time be received by a refiner that is a net purchaser of entitlements under § 211.67(a) (4) (ii). Furthermore, the reduced entitlement burden imposed per barrel at the time such crude oil would give rise to the applicable entitlement obligation.

The ERA recognizes that the amendments adopted today may require additional review by the Office of Administrative Review to consider exception applications for small refiners that are adversely affected by these new regulatory procedures. As to small refiners that are currently receiving exception relief because they are net purchasers of entitlements under the program, the amendments adopted today will effect a substantial reduction in entitlement purchase requirements, since entitlement obligations for California lower tier crude oil have been reduced by $1.74 per barrel effective for entitlement transactions relating to crude oil receipts on or after January 1, 1978. The amount of exception relief in effect for these firms is premised on a number of factors, one of which is the particular firm's projected entitlement purchase requirements for California lower tier crude oil. As the entitlement relief granted. Since these entitlement purchase requirements will be reduced substantially, it is appropriate to review, and if necessary to revise downward, the amount of exception relief now in effect for some small refiners located in California. The ERA's Office of Administrative Review will institute such proceedings in the near future.

Furthermore, the reduced entitlement issuances for these crude oils under the amendments adopted today may result in increased entitlement obligations for resellers and non-refiners, which will be reduced substantially, it is appropriate to review, and if necessary to revise downward, the amount of exception relief now in effect for some small refiners located in California. The ERA's Office of Administrative Review will consider exception applications by refiners that are adversely affected by these regulations and in appropriate cases approve relief.

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VI. FURTHER PROCEEDINGS

The ERA recognizes that the operation of the amendments adopted today will necessarily have to be reviewed in the near future because it is impossible to estimate with precision the effects the incentive for lower tier California production adopted herein will have on the California crude oil market, and particularly on the prices received by producers of California low gravity crude oil.

It will be necessary for the ERA to closely monitor the California market to determine, among other things, whether in fact the incentive provided here will be adequate to result in producers receiving their ceiling prices. The ERA will also monitor the effect on the entitlement reduction on California refiners dependent on imported or Alaska North Slope crude oil.

Accordingly, the present rulemaking makes provision for the taking of further modifications to the amendments adopted today. The ERA will soon issue a Further Notice of Proposed Rulemaking that will solicit public comment on whether the offsetting burden on entitlement sellers to allow after the ERA has had an opportunity has been enacted by then, and any other proposals that are designed to assist a particular aspect of the entitlements program that are designed to assist a particular region of the country, consistent with treatment of similar aspects of the entitlements program.

In consideration of the foregoing, Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective January 1, 1978, except that the amendments to §§ 211.66(h) and 211.67(a) shall be effective March 1, 1978.


DAVID J. BARDEN, Administrator, Economic Regulatory Administration.

1. Section 211.62 is amended by adding new definitions of "California lower tier crude oil" and "ERA" in appropriate alphabetical order to read as follows:

§ 211.62 Definitions.

California lower tier crude oil means crude oil produced in California with a gravity of 35.9 degrees API or below that is subject to the lower tier ceiling price rule set forth in § 212.73 of Part 212 of this chapter.


2. Section 211.66 is amended by revising paragraph (d) to read as follows:

§ 211.66 Reporting requirements.

(d) Monthly report. On or prior to the fifth day of each month, commencing with the month of March 1978, each refiner shall fill out and file with the ERA a report certifying the following information as of the second month prior to the month in which the report is filed:

(1) The estimated volume (to the best of the knowledge of the certifying officer) of old oil, upper tier crude oil included in the crude oil receipts of that refiner.

(2) The estimated volume (to the best of the knowledge of the certifying officer) of upper tier crude oil included in the crude oil receipts of that refiner.

(3) Any permitted or required adjustments to the estimated volumes of old and upper tier crude oil included in the crude oil receipts of that refiner.

(4) The volume of crude oil runs to stills of that refiner, taking into account, and specifying the amount of, the adjustments provided for in § 211.67(d).

(5) The weighted average costs for that refiner (including transportation costs to the refinery) of old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), other domestic crude oils, and imported crude oil included in the crude oil receipts of that refiner.

(6) The estimated volume (to the best of the knowledge of the certifying officer) of California lower tier crude oil included in the crude oil receipts of that refiner.

(7) The estimated volumes (to the best of the knowledge of the certifying officer) of imported crude oil and Alaska North Slope crude oil included in the crude oil receipts of that refiner.

(8) Such other information as the ERA may request.

3. Section 211.67 is amended by revising paragraph (a) (3), adding a new paragraph (a) (4), revising paragraph (f) (1), adding a new paragraph (g) (6) and revising paragraph (1) to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) Issuance of entitlements. (1) For each month commencing with the month of January 1978, each refiner shall be issued a number of entitlements by the ERA equal to the number of barrels of crude oil included in the total volume of that refiner’s crude oil runs to stills for that month multiplied by the national domestic crude oil supply ratio for that month, subject to the entitlement adjustment for small refiners set forth in paragraph (e) of this section and the entitlement adjustments in paragraphs (a) (3) and (4) of this section.

(4) For each month commencing with the month of January 1978, the number of entitlements issued under paragraph (a) (1) of this section to each refiner shall be increased by the number of barrels of California lower tier crude oil included in its adjusted crude oil receipts in that month multiplied by a fraction equal to $1.74 divided by the entitlement price for that month; and (ii) be decreased by a number of entitlements equal to (i) the number of barrels of imported crude oil and Alaska North Slope crude oil that are included in its adjusted crude oil receipts in that month with respect to its refineries located in California multiplied by (ii) the aggregate increase in entitlement issuance for all refineries calculated pursuant to paragraph (a) (4) (i) above, divided by the total number of barrels of imported crude oil and Alaska North Slope crude oil included in the adjusted crude oil receipts for that month for all refineries with respect to refineries located in the State of California.

(f) Transactions under § 211.65. (1) Effective for sales for the allocation quarter commencing March 1, 1976 under § 211.65 of this subpart, no sale by a refiner of imported crude oil under § 211.65 shall be deemed for purposes of this section to include any volume of domestic crude oil.

If a refiner-seller sells actual volumes of domestic crude oil under § 211.65, the related volumes of old oil and upper tier crude oil shall be included in that refiner-seller’s crude oil receipts in the month in which the sale is made. For purposes of the amendments adopted today, sales of imported crude oil and Alaska North Slope crude oil shall be included in the crude oil receipts of that refiner-buyer.

(6) Where a refiner acquires imported crude oil or Alaska North Slope crude oil which constitutes a crude oil receipt...
under § 211.62 of this subpart attributable to a refinery located in the State of California that is owned, operated, or the operations of which are controlled, by that refinery, the receipt of such imported crude oil at such a refinery shall result in a unitized property in entitlement issuances under paragraph (a) (4) (ii) above, notwithstanding that such crude oil may also be deemed to be retained as a separate pricing classification of domestic crude oil for purposes of this paragraph (g) as a result of an exchange or matching purchase and sale transaction of the type described in paragraph (g) (1) above and thus give rise to the applicable entitlement obligation under the calculations set forth in paragraphs (a) and (b) of this section.

1. Certification by non-refiners. Within twenty-eight (28) days following each month, commencing with the month of January 1978, each firm other than a refiner that has delivered crude oil to a refiner for processing pursuant to a processing agreement in that month shall certify that it refiner the respective volumes of and that firm’s costs for oil (separately identifying any California lower tier crude oil), upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), other domestic crude oils the first sale of which is exempt from Part 212 of this chapter, and imported crude oil contained in the oil so delivered to that refiner.

4. Section 212.131 is amended by revising paragraphs (a) (2) (i) and (a) (3) (l), adding new (a) (3) (ii), redesignating present (a) (3) (ii) and (iii) as (a) (3) (ii) and (iv), respectively; revising paragraph (b) (1), adding paragraph (b) (3); deleting paragraph (c); and redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively, as follows:

§ 212.131 Certification of domestic crude oil sales.

(a) * * *

(2) Nonstripper well properties. (i) With respect to each sale of crude oil from a property which has not qualified as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels, if any, of—

(A) Lower tier (“old”) crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter); and

(B) Upper tier (“new”) crude oil, excluding any crude oil transported through the trans-Alaska pipeline; and

(C) Crude oil transported through the trans-Alaska pipeline.

With respect to any property which has not qualified as a stripper well property, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a) (2) (i) may be complied with by a one-time certification to the purchaser of the property’s monthly base production control level determined pursuant to § 212.75, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975, if, and if applicable, the property’s adjusted base production control level determined pursuant to § 212.75 is set forth in the certification of this paragraph (a) (2) (i).

(ii) Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a) (2) (i) of this section, shall, with respect to each sale of domestic crude oil other than an allocation sale pursuant to § 211.65 of Part 211, or a sale in which no volumes of domestic crude oil are included in any mixed blend of crude oil and other refined petroleum products and residual fuel oil, certify in writing to the purchaser the number of barrels of—

(A) Lower tier (“old”) crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter);

(B) Upper tier (“new”) crude oil, if any, including either “actual new crude oil” or “imputed new crude oil” determined pursuant to § 212.75 (b), but excluding any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline, if any; and

(D) Imputed stripper well crude oil, if any, determined pursuant to § 212.75 (b).

(iii) With respect to any unitized property for which the producer has determined a unit base production control level, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a) (2) (ii) may be complied with by a one-time written certification to the purchaser of—

(A) The monthly unit base production control level, determined pursuant to § 212.76; and

(B) The number of barrels of “imputed new crude oil,” if any, determined pursuant to § 212.75 (b), excluding any crude oil transported through the trans-Alaska pipeline;

(C) The number of barrels of crude oil transported through the trans-Alaska pipeline, if any; and

(D) The number of barrels of imputed stripper well crude oil, if any, determined pursuant to § 212.75 (b).

(iv) Stripper well crude oil; and

(v) Other domestic crude oils the first sale of which is exempt from the provisions of this part—include in the volumes of domestic crude oil so sold.

The certification shall also contain a statement that true price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part.

(3) All certifications required by this paragraph shall relate only to the actual volumes of crude oil included in any mixed blend of crude oil and other refined petroleum products and residual fuel oil.

[FR Doc.77-35637 Filed 12-9-77; 1:59 p.m.]
Credit Reporting Act and related to discharge business credit purposes. That portion of the sample schedule of the Federal Reserve Board, other information, oral notifications, and record retention as required by § 202.12(b).

A creditor is required by § 202.3 of the Credit Reporting Act to notify an applicant that adverse action has been taken in writing when the action is adverse to the applicant. The notification may be oral. The applicant then has 30 days to make a request in writing for the reasons for the adverse action. You ask for clarification of the relationship between §§ 202.3 and 202.9.

A creditor is required by § 202.3 to notify an applicant that adverse action has been taken in writing when the action is adverse to the applicant. The notification may be oral. The applicant then has 30 days to make a request in writing for the reasons for the adverse action. You ask for clarification of the relationship between §§ 202.3 and 202.9.

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The Board in evaluating the need for larger operations with larger aircraft would be an uneconomic use of energy. Air Molokai estimates that 99 percent of its passengers are local, rather than tourist. As another example, according to Horizon, only Hilo, Kahului, and Lihue receive all-cargo service from Hawaiian on a daily basis; Kailua/Kona, once per week. Molokai, Lanai, and Kauai receive no regular freighter service, and Kamuela receives only 2 passenger flights per week. This type of schedule makes it impossible for freighters to not only meet these needs, and en able the air taxis to reach the shippers from the surface barge traffic, and to insti tute container service to communities not now receiving it.

The data submitted by Hawaiian in its comments show that, on average, the load factor for all-cargo operations in 1975. Hawaiian claims that this low figure shows the present adequacy of cargo capacity and the lack of demand for it. However, in view of the comments submitted by the shippers, and the comparative market operations of the certificated and air taxi cargo operations, the Board views Hawaiian's low cargo load factors as demonstrating a need for a different type of service that can be provided by the certificated carriers, with their emphasis on passenger service during the day and all-cargo flights only at night. The Board now turns to the consideration of Hawaiian and Aloha that there are insufficient data on the record for the Board to make the required findings under section 416 of the Act. This section requires the Board to make certain findings before an exemption from other sections of the Act can be given, namely, that enforcement of the Act's requirements is or would be an undue burden.
on such * * * class of air carriers by reason of the limited extent of, or unusual circumstances affecting, the operations of such * * * class of air carrier and is not the public interest." The first argument advanced by the Hawaiian certified carriers, and others, is that no finding is possible without an evidentiary hearing. As the Board stated in EDR-317, there is no statutory requirement for a full-scale evidentiary hearing under section 416 of the Act, nor do we believe that one is required in this case to provide interested persons ample opportunity to present their views and refute the arguments and evidentiary presentation of others. Having reviewed the petition, answers, pleadings incorporated by reference, comments and reply comments, it is the Board's opinion that no significant issues have been raised which are peculiarly amenable to solution only through oral testimony and cross-examination. We find that the record before us contains the requisite findings under section 416 of the Act, and that no further procedures are required.

Our goal in this proceeding is to encourage the private investment of air service; not only to maintain the health of the certificated system, but to assure that service required in the public interest is provided. In the five years since Hawaiian and Aloha entered the Hawaiian market have changed substantially. In the year ending June 30, 1971, Aloha and Hawaiian had operating revenues of $16.7 million and $29.9 million, respectively, while in the year ending June 30, 1977, these operating revenues had increased to $48.2 million and $80.8 million, respectively, while in the year ending June 30, 1976, the Hawaiian market have changed substantially. In the year ending June 30, 1971, Aloha and Hawaiian had operating revenues of $16.7 million and $29.9 million, respectively, while in the year ending June 30, 1977, these operating revenues had increased to $48.2 million and $80.8 million, respectively, while in the year ending June 30, 1976, the Hawaiian market have changed substantially. In the year ending June 30, 1971, Aloha and Hawaiian had operating revenues of $16.7 million and $29.9 million, respectively, while in the year ending June 30, 1977, these operating revenues had increased to $48.2 million and $80.8 million, respectively; and we believe that one is required in this case to provide interested persons ample opportunity to present their views and refute the arguments and evidentiary presentation of others. Having reviewed the petition, answers, pleadings incorporated by reference, comments and reply comments, it is the Board's opinion that no significant issues have been raised which are peculiarly amenable to solution only through oral testimony and cross-examination. We find that the record before us contains the requisite findings under section 416 of the Act, and that no further procedures are required.

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Turning to the question of whether enforcement of the certification procedures with respect to air taxi operators using this slightly larger aircraft, the Board has reviewed its findings in the "Part 298 Weight Limitation Investigation," supra, and the court's decision affirming those findings. We believe that our findings retain their validity in the Hawaiian context. The Hawaiian air taxi operations, just as their 49-state counterparts, are attempting to provide a financial rise, unsubsidized service, and need the operational flexibility to change routes and make other changes to meet the demands of their small-community constituency. We have no reason to doubt that this is no more easily achieved in the Hawaiian market, within the confines of a certificate, than in other United States markets. In view of these unusual circumstances affecting their operations, we find that to subject air taxis to the certification process, and accompanying restrictions of the certificate, would just as likely prevent a Hawaiian air taxi from operating with larger aircraft as it would an air taxi in the other 49 states. Equally important, we believe that generally, the air taxi operators in Hawaii, individually and as a group conduct operations that are limited in extent. According to statistics supplied by Hawaiian, air taxi operating costs for the Hawaiian Department of Transportation carried only 312,823 passengers in 1976, which compares with a total of 4.9 million passengers carried by Hawaiian and Aloha during the same period. For example, Royal Hawaiian Air Service, the largest passenger commuter carrier in Hawaii, employed only 151,926 passengers in the year ended June 30, 1976; and Horizon Air Service carried only 3.2 million lbs. of cargo during the same period. Also, the routes of air taxis in Hawaii, as in other States, generate limited revenue. Therefore, in the year ended December 1976, the Hawaiian commuter carriers generated only 175,5 million revenue passenger miles, and carried only 5.8 million pounds of cargo. These characteristics lead us to conclude that the air taxi equipment limitation of the Act's provisions would be an undue burden upon the Hawaiian air taxi operators, because of the limited extent of, and unusual circumstances affecting their operations.

ALPA suggests that the Board provide Aloha and Hawaiian with a form of route protection similar to what it provides the Alaskan carriers. At this time, the Board does not believe it necessary to restrict air taxi operations in Hawaii in such a manner. For one reason, as opposed to the Alaskan carriers, neither of the Hawaiian carriers has received a subsidy since 1969. Also, the market conditions of the two states are markedly different, and our regulatory scheme for Alaska has long reflected this fact. We will, though, closely monitor the situation in Hawaii. According to statistics supplied by Hawaiian, the air taxi operators, because of the limited extent of, and unusual circumstances affecting their operations.

See footnotes at end of article.
pacity of more than 30 seats or a maxi-
mum payload capacity of more than 7,500
pounds; Provided, however, That for the
purposes of this part, large aircraft shall
include all models of the Convair 240, 340,
Martin 202 and 404, F-27 and FJ:1-27; and
Hawker Siddley 748; and shall also include
any other aircraft with a maximum zero fuel
weight in excess of 35,000 pounds.
2. Amend § 298.31 to read as follows:
§ 298.31 Scope of service and equip-
ment authorized.
Nothing in this part shall be construed
as authorizing the operation of large air-
craft in air transportation, and the ex-
emption provided by this part to air taxi
operators which register and reregister
with the Board extends only to the direct
operation in air transportation, ac-
cordance with the limitations and con-
tions of this part of aircraft having a
maximum passenger capacity of 30 seats or
less and a maximum payload capacity
of 7,500 pounds or less.
(Secs. 204(a), 416, Federal Aviation Act
1324, 1390).)
By the Civil Aeronautics Board.

PHILLIS T. KAYLOR,
Secretary.

[FR Doc. 77-35687 Filed 12-13-77; 7:3-8:45 am]

FOOTNOTES
1 Comments, reply comments, or letters
in support were received from IAT, the State
of Hawaii, Hawaii Air Cargo Shippers Asso-
ciation, Air Molokai, and Hotel Molokai.
Opposed were the Air Line Pilots Association
International (ALPA), Royal Hawaiian Air
Service, Aloha Airlines, Hawaiian Airlines
(Hawaiian also incorporated by reference its
pleadings from D. 28808, the IAT exemption
Braun. A letter from UJS. Representative
Hilo, and Kona. All-cargo service is provided
in this case, with its answer in this case,
plication for renewal of its authority to
suspend service at Kamuela was consolidated
into this case.
Proceeding); William L. George and Rick G.
L. George.
Daniel K. Akaka, Rick G. Braun, and William
89-805, 19 U.S.C. 1202, which establishes a limitation on
the number of watches and watch move-
ments containing foreign components
which may be imported duty-free from
insular possessions of the United States.
DATE: This transfer shall become effec-
tive December 9, 1977.

FOR FURTHER INFORMATION CON-
TACT:
Mr. Richard M. Seppa, 222-377-2925.

FRANK A. WEIL,
Assistant Secretary for Indus-
try and Trade, U.S. Depart-
ment of Commerce.

[FR Doc. 77-35700 Filed 12-12-77; 11:01 am]

CHAPTER III—DOMESTIC AND INTERNA-
TIONAL BUSINESS ADMINISTRATION,
DEPARTMENT OF COMMERCE
PART 303—WACHES AND WATCH
MOveMENTS
Codification of Watch Quota Rules
AGENCY: Industry and Trade Adminis-
tration (formerly Domestic and Interna-
tional Business Administration), Com-
merce; and Office of the Secretary, In-
terior.

ACTION: Codification of watch quota
rules with general applicability and fu-
ture effect. Final rules.

SUMMARY: This action combines into
a single part (i) previously published
annual rules which have general appli-
cability and future effect and (ii) pre-
viously published special rules which
relate to the responsibility of the Secre-
taries of Commerce and the Interior to
allocate duty-free quotas for watches
and watch movements assembled in the
U.S. insular possessions under Pub. L.

DATE: These rules shall become effec-
tive December 9, 1977.

FOR ADDITIONAL INFORMATION
CONTACT:
Mr. Richard M. Seppa, who can be
reached by telephone on 222-377-2925.

SUPPLEMENTARY INFORMATION:
On September 30, 1977, there was pub-
lished in the Federal Register (42 FR
52433 et seq.) proposed rules for codifi-
cation in a single Part of the Code of
Federal Regulations relating to the joint
responsibilities of the Secretaries of
Commerce and the Interior for the allo-
cation of duty-free quotas for watches
and watch movements assembled in the
U.S. insular possessions under Pub. L.
89-805. Interested parties were invited to
submit written comments concerning the
proposed rules on or before October 31,
1977. No comments were received. As the
result of further internal review, how-
ever, some modifications, as set forth be-
low, have been adopted.
For the sake of consistency, the term
"Secretaries" has been substituted through-
out wherever the term "Depart-
ments" occurred in the proposed rules;
correspondingly, "Departments" has
been deleted from the list of definitions.
In § 303.3 paragraph (c) has been de-
leted as inconsistent with required rule-
making procedures.
In § 303.8(a) (2) a sentence has been
inserted to clarify that any quota earned
by a producer in excess of its annual
request is considered to have been relin-
quished voluntarily and to be allocable to
other producers.
In § 303.10 paragraph (c) has been
modified to make it consistent with
§ 303.11. Other modifications are minor
and editorial. Accordingly, 15 CFR Part
303 is published to read in final form as
follows:

Sec. 303.1 Purpose.
303.2 Definitions and forms.
303.3 Publication of annual rules.
303.4 Application for quotas.
30.5 Allocation and restituation of quotas.
303.6 Issuance of licenses.
303.7 Issuance of permits.
303.8 Quarterly reporting requirements.
303.9 Maintenance of quota entitlements.
303.10 Restrictions on transfer of duty-free
quotas.
303.11 Appeals.

Authority: Pub. L. 89-805, 60 Stat. 1521
§ 303.1 Purpose.

This part implements the responsibilities of the Secretaries of Commerce and the Interior under Pub. L. 89-805, enacted November 10, 1966, which amended general headnote 3(a) of the Tariff Schedule of the United States (TSUS) (19 U.S.C. 1202) and added headnote 6 to schedule 7, part 2, subpart E. With certain exceptions, general headnote 3(a), TSUS, exempts from duty components which may enter the U.S. free of duty under general headnote 3(a) to exempt from duty watches and watch movements containing fifty percent or less foreign materials. Pub. L. 89-805 establishes a limitation (equal to one-ninth of apparent U.S. consumption of watches and watch movements) on the number of watches and watch movements containing foreign components which may enter the U.S. free of duty under general headnote 3(a) during any other fiscal year.

§ 303.2 Definitions and forms.

(a) Unless the context otherwise indicates:


(2) "Secretaries" means the Secretary of Commerce and the Secretary of the Interior or their delegates, acting jointly.

(3) "Director" means the Director of Statutory Import Programs, Bureau of Trade Regulations, Industry and Trade Administration, Department of Commerce.

(4) "Sale or transfer of a business" means the sale or transfer of control, whether temporary or permanent, over a firm to which a quota has been allocated to another firm, corporation, partnership, person or other legal entity by any means whatsoever, including but not limited to, merger, transfer of stock or assets or voting trusts.

(5) "New firm" means an entity which is completely separate from and unassociated with (by way of ownership or control) any present quota recipient in the same territory in which the entity is requesting a quota. A "new firm" is a new firm which has received a quota allocation.

(6) "Producer" means a quota holder performing assembly operations pursuant to a quota allocation which has maintained its eligibility for further allocations by compliance with all applicable rules and regulations issued by the Secretaries.

(7) "Established industry" means all producers, including new entrants, which have maintained their eligibility for further quota allocations.

(8) "Territories", "territorial" and "insular possessions" refer to the insular possessions of the United States, i.e., the U.S. Virgin Islands, Guam and American Samoa.

(9) "Quota allocation" refers to the Secretaries' formal act of authorizing the duty-free entry of a specified number of watches and watch movements into the customs territory of the United States by the several producers during each calendar year or portion thereof.

(10) "Initial allocation" refers to the allocation made at the beginning of each calendar year to each eligible producer. The sum of the annual allocations, plus any amount of quota that may be set aside or reserved for allocation purposes, equals the territorial quota available for that territory.

(12) "Supplemental allocation" is an allocation which increases the amount of a producer's quota made either between an initial allocation and an annual allocation for the purpose of allowing a producer to continue operations or after an annual allocation for the purpose of maximizing the utilization of quota in the territory.

(13) A "reduced allocation" is an allocation made to supersede a producer's allocation with a smaller quota amount, whether for cause or as the result of the producer's voluntary relinquishment of quota.

(14) A "reallocation" is a process whereby quota held by one or more producers, or quota set aside for new entrants, is placed with one or more other producers. Such reallocations generally are made for the purpose of facilitating maximum utilization of a territory's calendar year quota and of promoting the greatest possible economic contribution to the territory.

(b) The forms used in the administration of Pub. L. 89-805 are:

(1) DIB-334P, "Application for License to Enter Watches and Watch Movements into the Customs Territory of the United States (Pub. L. 89-805)." This form must be filed annually by all producers desiring to receive an annual allocation of quota. It is also used, with appropriate special instructions for its completion, by new firms applying for quota at the time of a new entrant provision.

(2) DIB-333, "License to Enter Watches and Watch Movements into the Customs Territory of the United States (Pub. L. 89-805)." This form is issued by the Director to producers which have received a quota allocation and constitutes the formal authorization for the issuance of type, if any, transaction permits by the territorial governments. It is also used to record the balance of a producer's quota remaining after the issuance of each shipment permit.

(3) DIB-328, "Permit to Enter Watches and Watch Movements into the Customs Territory of the United States (Pub. L. 89-805)." This form is issued by the territorial government to producers holding a valid quota allocation and constitutes the authorization for the duty-free entry of an amount of watches or watch movements specified on the form at the U.S. Customs entry designated on the form.

(4) DIB-321P, "Quarterly Report on Watch Assembly Operations of Firms Granted a Watch Quota Allocation (Pub. L. 89-805)." This form provides the Secretaries with data on a producer's purchase, assembly and shipment activity during the quarterly report period, and scheduled delivery of components and finished movements for the remainder of the calendar year. These data are used by the Secretaries for program evaluation and planning purposes. Each producer is required to return the completed form to the Director on or before April 15, July 15, and October 15 of each calendar year.

§ 303.3 Publication of annual rules.

Between November 1 and December 15 each calendar year the Secretaries shall publish a notice in the Federal Register proposing rules for the allocation of quotas for the following calendar year. Interested parties will be asked to provide written comments within the time specified in the notice. As early as possible in each calendar year the Secretaries shall publish in the Federal Register the annual rules governing the allocation of quotas for each territory for that year. These rules generally shall contain:

(a) Criteria or formulas which will be used by the Secretaries in calculating each producer's annual watch quota allocation, and

(b) Such other special rules or provisions as the Secretaries may prescribe, e.g., notice of a new entrant provision, notice of allocation bases for new entrants, etc.
§ 303.4 Application for quotas.

(a) Application forms (DIB-334P) shall be furnished to producers as soon as practicable, but not later than January 1, and must be completed and returned to the Director on or before January 31 of each calendar year. In order to supply the data required in the application form, all data supplied therefor may result in the producer's ineligibility for an annual allocation of quota and in the cancellation of its initial allocation.

(b) All data supplied are subject to verification by the Secretaries and no allocation of the annual quota shall be made to a producer until the Secretaries are satisfied as to the accuracy of the data it has supplied. To verify the data, it is necessary for representatives of the Secretaries to have access to relevant company records including, but not limited to:

(1) Work sheets used to answer all applicable questions on the application form;

(2) Original records from which such data are derived;

(3) Records pertaining to ownership and control of the company and to its satisfaction of eligibility requirements for duty-free treatment of its product by the U.S. Customs Service;

(4) Records pertaining to corporate income taxes, gross receipts taxes and excise taxes paid by each producer in the territories on the basis of which a portion of each producer's annual quota is or may be predicated;

(5) Customs, bank, payroll and production records; and

(6) Records on purchases of components and sales of movements, including proof of payment.

The verification of data shall be performed in the territories by the Secretaries' representatives as soon as practicable each calendar year, but no later than the end of March.

§ 303.5 Allocation and reallocation of quotas.

(a) Allocation of quotas—(1) Initial allocations. As soon as practicable after January 1 of each year the Secretaries shall make an initial allocation to each producer equaling 70 percent of the number of watch units it has assembled in the particular territory and entered duty-free into the customs territory of the United States during the first eight months of the preceding calendar year, or any lesser amount requested in writing by such producer. In calculating the initial allocations, the Director shall count only those duty-free watches and watch movements verified by the U.S. Customs Service on Form DIB-340 as having been released for immediate delivery (or formally entered if such occurred simultaneously with release) on or before August 31.

(2) Annual allocations. As soon as practicable after April 1 of each year the Secretaries shall make the annual allocations among the several producers on the basis of the data supplied by producers in their annual application (Form DIB-334P) and verified by the Secretaries and in accordance with the allocation criteria specified in the annual rules. A producer shall not be allocated more than the disprorportionate amount of the annual allocation to the producer specified in its application and the amount it expects to be able to use during the calendar year.

The excess of a producer's quota earned under the allocation criteria over the amount formally requested by the producer shall be considered to have been relinquished voluntarily (see subsection (b) below). A producer's request may be modified by written communication received by the Secretaries on or before March 31. A notice of allocations shall be published in the Federal Register, except where such publication might result in the disclosure of information which is of a business proprietary nature.

(3) Supplemental allocations. At the request of a producer, the Secretaries may make an allocation of quota supplementing a producer's initial allocation if the Secretary determines that the producer's initial allocation will be used before the Secretaries can issue the annual allocations. Before making such supplemental allocations, the Secretaries shall take into account the requesting producer's estimated annual allocation to ensure that the sum of its initial and supplemental allocations does not constitute a disproporportionate amount of the annual allocation. Allocation to supplement a producer's annual allocation shall be made under the reallocation provisions prescribed below.

(4) Allocations to new entrants. In making initial and annual allocations to producers selected the preceding year as new entrants, the Secretaries shall take into account that such producers will not have had a full year's operation as a basis for computation of quota.

(b) Reallocation of quotas. Quota may become available for reallocation as a result of cancellation or reduction for cause, voluntary relinquishment or nonplacement of quota set aside for new entrants. The Secretaries may reallocate such quotas among the remaining producers who are able to utilize additional quota in a manner which in the judgment of the Secretaries is best suited to contribute to the economy of the territories. In reallocating quota the Secretaries shall take into account such factors as the wage and income tax contributions of the respective producers during the preceding year, the nature of the industry itself and thereby on the economy of the territory. The Secretaries may determine that applications from new firms, in lieu of reallocation, should be invited for any part or all of any unused portion of the quota. As the factors the Secretaries may evaluate in making this determination are:

(1) The ability of the established industry to utilize the available quota;

(2) Whether the available quota is sufficient to support viable operations for one or more new entrants;

(3) The possible impact upon the established industry of selecting any new entrant, particularly with respect to the effect on local employment, tax contributions to the territorial government, and on the ability of the established industry to maintain satisfactory productivity levels; and

(4) Whether the addition of new entrants offers the best prospect for added economic benefits to the territory.

Following consideration of such factors, if the Secretaries determine that it would be in the best interest of the territory, they may set aside all or a portion of the quota available for reallocation and invite applications from new entrants through publication of a notice in the Federal Register. The annual rules may also provide for setting aside a portion of a territory's annual quota for new entrants. In determining whether to do so, the Secretaries shall consider factors similar to those considered in determining whether to invite applications from new firms in lieu of reallocating unutilized quota to the established industry. If the Secretaries determine that inviting applications from new firms would be in the best interests of the territory, they shall, in the annual rules, set aside a portion of the annual quota for this purpose, set forth their reasons for doing so, and describe the information new firms will be required to submit in applying for a quota allocation, including but not limited to the applicant's financial capacity, production and marketing experience, proposed source of parts and components, affiliation with other business entities in the watchmaking and watchmarketing industry, proposed degree of assembly, proposed wage rates by job classification, and the applicant's intentions with regard to the number of jobs to be assembled and shipped duty-free into the customs territory, establishing or acquiring a local production facility, and seeking territorial tax exemptions or other local industrial incentive benefits.

§ 303.6 Issuance of licenses.

(a) Concurrent with quota allocations under § 303.5, the Director shall issue a non-transferable license (Form DIB-333) to each producer. The Director shall also issue a replacement license if a producer's quota is reduced pursuant to § 303.9.

(b) Annual quota licenses shall be for only that portion of a producer's annual quota not previously licensed under an initial and initial supplemental allocation.

(c) If a producer's quota has been reduced, the Director shall not issue a replacement license for the reduced amount until the producer's producer's license has been received for cancellation by the Director.

(d) A producer's licenses shall be used in their entirety, except when they expire or are cancelled, in order of their
§ 303.7 Issuance of shipment permits.
(a) The Governors of the respective insular possessions are authorized to issue shipment permits (Form DIB-340) against producers' quota licenses. With the prior concurrence of the Secretaries, the Governors may delegate this authority to responsible government officials by providing the name, official title and sample signature of the designated officials to the Director. Such designations shall become effective upon receipt of the Secretaries' written concurrence.
(b) Each permit shall, among other things, identify the number of watches and watch movements included in the shipment and the unused balance remaining on the producer's license as well as pertinent shipping information.
(c) Producers shall request, and the Governors or their delegates shall issue, only one shipment permit for each separate shipment or consignment.
(d) Shipment permits shall be valid for each calendar year in which issued. In order to accomplish duty-free entry, the importer of record or his broker must present the original of the related Form DIB-340, together with other pertinent information required by Customs Service, to the District Director of Customs at the port of entry. No entry shall be afforded duty-free treatment unless the merchandise has been formally entered for consumption prior to midnight, December 31, of the year in which the shipment permit is issued unless the merchandise was timely presented at the port of entry together with all required entry documents and the Customs official at the port of entry certifies to the Director that formal entry could not be effected due to circumstances beyond the control of the importer of record.
(e) If a shipment permit expires before the shipment can be presented to Customs officials due to transportation delays, carrier mishandling or other circumstances beyond the control of the shipper, the shipment may be entered duty-free upon presentation of a new shipment permit issued against a currently valid license, provided there is compliance with all customs regulations and procedures. In such cases the expired shipment permit must be forwarded to the Director with a letter explaining the circumstances. Such entries shall be counted as a shipment in the year of entry for purposes of calculating the producer's annual quota the following year.
(f) For purposes of calculating calendar year quotas as prescribed in the annual rules, any watches or watch movements shipped by a producer for duty-free entry into the customs territory of the United States shall, nevertheless, be considered as having been entered into the customs territory during the year in which they were shipped, provided the Secretaries are satisfied that shipment was in fact made but lost prior to entry into the customs territory. In the event the time of entry is not ascertainable, the shipment permit shall be considered as having been canceled against the producer's license. In such cases, credit for quota calculation purposes will be accorded the replacement shipment but not the lost shipment.

§ 303.8 Quarterly reporting requirements.
(a) Each producer is required to file a report (Form DIB-321P) on April 15, July 15, and October 15 of each year covering the periods January 1 to March 31, April 1 to June 30, and July 1 to September 30, respectively. No report is required for the fourth quarter (October 1 to December 31) as this data will be reflected on Form DIB-334P at the time the producer applies for an annual watch quota allocation. Copies of Form DIB-321P shall be forwarded to the Director at each producer's territorial address of record at least 15 days prior to the required reporting date. The Form DIB-321P must be computed on a timely basis and returned to the Director by registered mail.
(b) In addition to providing the Director with specified information regarding the producer's watch movement assembly operations during the reporting period and projected operations for the remainder of the calendar year, Form DIB-321P must be accompanied by a letter from the Director certifying that all shipments were made without regard to the producer's proposed watch assembly operations subsequent to the transfer of sale. The Secretaries may require such additional information as they consider relevant.

§ 303.9 Maintenance of quota entitlements.
(a) The Secretaries may issue a show-cause order requiring a producer to show cause, within 30 days of receipt of the order, why the duty-free quota to which it would otherwise be entitled should not be reduced or cancelled by the Secretaries whenever:
(1) A producer has not assembled and entered duty-free into the customs territory of the United States at least 25 percent of its initial quota allocation prior to April 1;
(2) The Secretaries have reason to believe a producer will fail to enter by December 31 at least 75 percent of its annual allocation or, in the event the producer has voluntarily relinquished some of its quota to the Secretaries, 90 percent of its reduced quota; or
(3) A producer, in the judgment of the Secretaries, has failed to make a meaningful contribution to the territory for a period of two or more consecutive calendar years, when compared with the performance of the later assembly industry in the territory as a whole. This comparison shall include the producer's utilization of quota, amount of direct labor employed in the assembly operations and overall movements, and the net amount of corporate income taxes paid to the government of the territory. If the producer fails to satisfy the Secretaries as to why such action should not be taken, the firm's quota shall be reduced or cancelled, whichever is appropriate under the show-cause order. The eligibility of a firm whose quota has been reduced or cancelled to receive further allocations may also be terminated.
(b) If a firm's quota is reduced or cancelled, or if a firm voluntarily relinquishes a part of its quota, the Secretaries may (i) reallocate the quota involved among the remaining producers in a manner best suited to contribute to the economy of the territory; (ii) invite applications from new firms in accordance with § 303.5(b), or (iii) do neither.

§ 303.10 Restrictions on transfer of duty-free quotas.
(a) The sale or transfer of a quota from one firm to another shall not be permitted.
(b) The sale or transfer of a business together with its quota may be permitted with the prior approval of the Secretaries. Prior approval may be sought by submitting a written request to the Secretaries setting forth all facts regarding the proposed sale or transfer, including a copy of the formal sales or transfer agreement, a current financial statement covering the business and assets being transferred, and a detailed statement of the producer's proposed watch assembly operations subsequent to the transfer of sale. The Secretaries may require additional information as they consider relevant.
(c) If the Secretaries make a determination that a firm has made a sale or
transfer in violation of these rules, they shall send written notice of the determination by registered or certified mail to the firm's territorial address of record. The firm may appeal such determination in accordance with the procedures set forth in § 303.11 below. Failure to comply with the procedures may result in the cancellation of its license and the firm whose quota has been cancelled for violating the regulations in this Part may be declared ineligible for quota allocations in future years.

§ 303.11 Appeals.

(a) Any official decision or action relating to the allocation of duty-free watch quotas may be appealed to the Secretaries by any interested party. Such appeals must be received within 30 days of the date on which the decision was made or the action taken in accordance with the procedures set forth in paragraph (b) of this section. Interested parties may petition for the issuance of a rule, or amendment or repeal of a rule issued by the Secretaries. Interested parties may also petition for relief from the application of any rule on the basis of hardship or extraordinary circumstances resulting in the inability of the petitioner to comply with the rule. Appeals and petitions (hereafter petitions) shall be addressed to the Secretaries and filed in one original and two copies with the U.S. Department of Commerce, Industry and Trade Administration, Bureau of Trade Regulations, Washington, D.C. 20230, Attention: Statutory Import Programs.

(b) Petitions shall bear the name and post office address of the petitioner and the name and address of the principal attorney or authorized representative (if any) for the party concerned. Petitions shall contain the following:

(1) A reference to the decision, action or rule which is the subject of the petition.

(2) A statement of the interest of the petitioner.

(3) A statement of the facts as seen by the petitioner.

(4) The petitioner's argument as to points of law, policy or fact. In cases where policy error is contended, the alleged error should be described in full together with a full description of the policy the submitting party advocates as the correct one.

(5) A conclusion specifying the action that the petitioner believes the Secretaries should take.

(c) The Secretaries may at their discretion schedule a hearing and invite the participation of other interested parties.

(d) Notice of the Secretaries' decision, together with their reasons, shall be communicated to the petitioner promptly by registered mail. Decisions made by the Secretaries shall be final.

Dated: December 9, 1977.

JAMES A. JOSEPH,
Under Secretary,
U.S. Department of the Interior.

FRANK A. WEIL,
Assistant Secretary for Industry and Trade, U.S. Department of Commerce.

[3510–25 ]

export licensing general policy and related information; individual validated licenses and amendments; special licensing procedures; reexports; documentation requirements

deletion of periodic requirement and time limit licenses

AGENCY: Office of Export Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This issuance discontinues the Periodic Requirements License procedure and Time Limit License procedure because such procedures have not been utilized to a significant extent by exporters and essentially the same benefits are available to exporters under existing alternative procedures.

EFFECTIVE DATE: December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce.

PART 374—BLEXPORTS

5. In § 374.2 the second sentence of paragraph (a) and the first sentence of paragraph (b) (7) are revised to read as follows:

§ 374.2 Permissive reexports.

* * * * *

§ 375—DOCUMENTATION REQUIREMENTS

PART 379—COMMODITY CONTROL LIST AND RELATED MATTERS

§ 399.1 [Amended]

6. In the Commodity Control List, incorporated by reference at 15 CFR § 399.1(a), the column entitled "Special Provisions List" is deleted.

In addition, a Form DIB-629 is required in support of reexport authorization requests involving shipments to certain countries as specified in Part 374.

(b) The ultimate consignee is an institution of higher learning (e.g., university, academy, college, etc.) located in Country Group V.

PART 370—IMPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

§ 370.2 [Amended]

1. In § 370.2 paragraphs (a) (20) and (a) (22) are deleted and reserved.
RULES AND REGULATIONS

By direction of the Commission dated October 26, 1977.

CAROL M. THOMAS, Secretary.

[FR Doc 77-35636 Filed 12-14-77; 8:45 am]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Philadelphia, Pa. consumer credit corporation and its subsidiaries to cease failing to provide consumers, in connection with the extension of credit, such material and disclosures as are required by Federal Reserve Board regulations; and to cease misrepresenting or failing to inform customers of the optional nature of credit insurance. Further, the order requires firms to offer customers the opportunity to cancel such insurance and to make appropriate refunds as specified.

DATES: Complaint and order issued November 8, 1977.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: On Wednesday, August 31, 1977, there was published in the Federal Register (42 FR 43864) a proposed consent agreement with analysis in the Matter of Providers Benefit Co., Provident Consumer Discount Co., Inc., and Provident Credit Corp., corporations, and Frederick I. Robinson and George Billings, individually and as an officer of Provident Consumer Discount Co. Inc. and Provident Credit Corp., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

1 Copies of the Complaint, and the Decision and Order, filed with the original document.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:


AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Cincinnati, Ohio retail food store chain to make available for sale to customers in its stores, items which were advertised in such a manner to indicate that the prices were correctly priced, and to sell those items at or below the advertised price. Further, the firm must post copies of advertisements and notices of the availability of “rainchecks” for unavailable items.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: On Wednesday, May 11, 1977, there was published in the Federal Register 42 FR.
Tolerances are established for combined residues of the herbicide 4-amino-6-(1,1-dimethylphenyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one and its triazine metabolites in or on the following raw agricultural commodities:

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Tolerance (ppm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alfalfa, green</td>
<td>0.2</td>
</tr>
<tr>
<td>Alfalfa, hay</td>
<td>0.2</td>
</tr>
<tr>
<td>Asparagus</td>
<td>0.05</td>
</tr>
<tr>
<td>Castor, fat</td>
<td>0.1</td>
</tr>
<tr>
<td>Castle, mbyp</td>
<td>0.1</td>
</tr>
<tr>
<td>Castle, meat</td>
<td>0.1</td>
</tr>
<tr>
<td>Corn, fodder</td>
<td>0.1</td>
</tr>
<tr>
<td>Corn, forage</td>
<td>0.1</td>
</tr>
<tr>
<td>Corn, fresh (inc. sweet K+CWHR)</td>
<td>0.05</td>
</tr>
<tr>
<td>Corn, grain (inc. popcorn)</td>
<td>0.05</td>
</tr>
<tr>
<td>Eggs</td>
<td>0.05</td>
</tr>
<tr>
<td>Goats, fat</td>
<td>0.1</td>
</tr>
<tr>
<td>Goats, mbyp</td>
<td>0.1</td>
</tr>
<tr>
<td>Goats, meat</td>
<td>0.1</td>
</tr>
<tr>
<td>Grass</td>
<td>0.05</td>
</tr>
<tr>
<td>Grass, hay</td>
<td>0.05</td>
</tr>
<tr>
<td>Hogs, fat</td>
<td>0.05</td>
</tr>
<tr>
<td>Hogs, mbyp</td>
<td>0.05</td>
</tr>
<tr>
<td>Hogs, meat</td>
<td>0.05</td>
</tr>
<tr>
<td>Horses, fat</td>
<td>0.05</td>
</tr>
<tr>
<td>Horses, mbyp</td>
<td>0.05</td>
</tr>
<tr>
<td>Horses, meat</td>
<td>0.05</td>
</tr>
<tr>
<td>Milk</td>
<td>0.05</td>
</tr>
<tr>
<td>Potatoes</td>
<td>0.05</td>
</tr>
<tr>
<td>Poultry, fat</td>
<td>0.05</td>
</tr>
<tr>
<td>Poultry, mbyp</td>
<td>0.05</td>
</tr>
<tr>
<td>Poultry, meat</td>
<td>0.05</td>
</tr>
<tr>
<td>Sainfoin</td>
<td>0.05</td>
</tr>
<tr>
<td>Sainfoin, hay</td>
<td>0.05</td>
</tr>
<tr>
<td>Sheep, fat</td>
<td>0.05</td>
</tr>
<tr>
<td>Sheep, mbyp</td>
<td>0.05</td>
</tr>
<tr>
<td>Sheep, meat</td>
<td>0.05</td>
</tr>
<tr>
<td>Soybeans</td>
<td>0.05</td>
</tr>
<tr>
<td>Sugarcane</td>
<td>0.05</td>
</tr>
</tbody>
</table>

Tolerances of 7 ppm on alfalfa, grass, and sainfoin hay; 2 ppm on green alfalfa, grass, and sainfoin; 0.1 ppm on corn fodder and forage; and 0.05 ppm on asparaguses, fresh corn including sweet corn (kernels plus cob with husk removed), corn grain, and (b) increasing the established tolerances of 0.2 ppm in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep to 0.7 ppm and 0.01 ppm in milk to 0.05 ppm, and (c) revising the section in its entirety to editorially restructure the section into an alphabetized columnar listing to read as follows.

§ 180.332 4-Amino-6-(1,1-dimethylphenyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one; tolerances for residues.

(42 FR 54842) in response to two pesticide petitions (PP 5F1628 and 5F1629) submitted to the Agency by the Moby Chemical Corp., P.O. Box 4913, Hawthorn Tower, Kansas City, Mo. 64120. These petitions proposed that 40 CFR 180.332 be amended by the establishment of tolerances for combined residues of the herbicide 4-amino-6-(1,1-dimethylphenyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one and its triazine metabolites in or on the raw agricultural commodities alfalfa, gross, and sainfoin hay at 7 parts per million (ppm); gross alfalfa, grass, and sainfoin at 2 ppm; wheat straw at 0.2 ppm; asparaguses, wheat grain, sweet corn (kernels plus cob with husk removed), and corn grain at 0.05 ppm; meat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.7 ppm; corn forage and fodder at 0.1 ppm; and in milk at 0.05 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rule-making.

Subsequently, the petitioner amended PP 5F1628 to request combined tolerances of 0.2 ppm on wheat straw and 0.05 ppm on wheat grain. It has been concluded, therefore, that the proposed amendment to 40 CFR 180.332 as it was proposed would be adverse as changed, and it has been determined that this regulation will protect the public health. Any person adversely affected by this regulation may, on or before January 13, 1978, file written objections with the Hearing Clerk, EPA, Room 1019, East Tower, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.
Title 46—Shipping
CHAPTER IV—FEDERAL MARITIME COMMISSION
[General Order 38; Docket No. 77-22]
PART 507—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission heretofore enacts rules and regulations under the Merchant Marine Act of 1920 in order to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States resulting from discriminatory laws of the Government of Guatemala. These rules require Guatemalan-flag carriers and their associates to pay an Equalization Fee designed to eliminate the discriminatory diversion of cargo to those carriers caused by the Guatemalan laws. These rules also require such carriers to file Summary Reports of Cargo Carryings in the U.S. to Guatemala Trade and file an Equalization Fee Payment Guarantee with the Federal Maritime Commission.

DATE: To become effective January 13, 1978.

FOR FURTHER INFORMATION CONTACT:
Francis C. Hunney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-583-7575.

 SUPPLEMENTAL INFORMATION: Every sovereign nation has the right to control its commercial intercourse with other nations. Therefore, participation by the citizens of another nation in the foreign commerce of the United States is a privilege which may be terminated, conditioned, or limited.

However, the United States does not generally exercise such power because it recognizes that reciprocal privileges of commercial participation are preconditions to any substantial commercial intercourse. The United States is committed to the general idea that unrestricted participation in international trade is in the best interest of both the United States and her trading partners. It is believed that free trade can be relied upon to stimulate the most effective and efficient production and distribution of goods and services, redounding to the benefit of all involved. This commitment to the ideals of free trade is a logical extension of our national belief in a market economy and competition in the marketplace.

These principles of free trade have found expression in the General Agreement on Tariffs and Trade (GATT), the antitrust laws, and the shipping laws of the United States. Generally, the ports of the United States are therefore open to the vessels of all nations who wish to compete to carry our commerce.

This commitment to the idea that all persons should be allowed to compete in the international marketplace, does not, however, constitute an abandonment of the power of the United States over its own commerce. Quite to the contrary, the power to control commercial interaction with other nations is a power which must be preserved for use whenever the goods and services of the United States and her citizens are unnaturally handicapped in the international marketplace by the actions of a foreign nation or by the discriminatory acts of a foreign nation unfairly tip the delicate scales of competition in favor of their own citizens or commerce to the detriment of the citizens or commerce of the United States. It is well recognized that the scales be rebalanced. This may be done by persuading the other state to abandon or cease its actions or by balancing the detriments so as to negate any artificial advantages for the citizens or commerce of the foreign nation.

The power to regulate commerce of the United States is vested with the Congress by Article I, Section 8, Clause 3 of the Constitution. Section 19 authorizes and directs the Commission to take action to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade of the United States and which arise out of, or result from, foreign laws, rules or regulations, or from competitive methods or practices employed by owners, operators, agents or masters of vessels of a foreign country.

The types of conditions which the Commission has found to be unfavorable to shipping in the foreign trade of the United States are generally set forth in the Commission General Order No. 33 (46 CFR 506). Among these are conditions which preclude or tend to preclude vessels in the foreign trade of the United States from competing in a trade on the same basis as other vessels, and those which are discriminatory or unfair as between carriers. (46 CFR 506.3 (a) and (d)).

Republic of Guatemala Decree No. 41-71 establishes a penalty of 50 percent of the ocean freight charges paid on any goods imported into Guatemala which are shipped from the United States to Guatemala, pursuant to the foreign trade of the United States, 35 U.S.C. 820, on all carriers serving in the trade between the U.S. and Guatemala. The STR termed ‘Deproportionation of imports (or those private enterprises of which the capital is at least 75 percent Guatemalan) and their vessels are of Guatemalan registry and have a capacity of no less than 2,000 tons, Guatemalan carriers may contract for the services of foreign carriers (known as ‘associated carriers’), in which case, duty free goods may be transported by the associated carriers to Guatemala without being subject to the aforementioned 50 percent penalty.

Coordinated Caribbean Transport, Inc., (CCT) is such an ‘associated carrier’ under the Republic of Guatemala Decree No. 41-71, CCT and Fiaflorcamio Gran Centro Americana, S.A. (a Guatemalan-flag carrier known as Fiaflormexa) has entered into an agreement of ‘association’ whereby current on Fiaflormexa 2.25% of all the revenue CCT earns on cargo carried to Guatemala in return for the privilege of having CCT cargo exempted from the charges provided for in Article 3 of Decree No. 41-71. On July 1, 1975, Delta (Delta Steamship Lines, Inc.) filed a petition with the Commission seeking relief under section 19, Merchant Marine Act, 1920, from the effects of Decree No. 41-71. Delta also filed a complaint under section 301 of the Trade Act of 1974 with the Special Representative for Trade Negotiations (STR).

On July 25, 1975, the Commission served fact finding Orders under section 21 of the Shipping Act, 1916 (46 U.S.C. 807), on all carriers serving in the trade between the U.S. and Central American countries. The STR held hearings on the Delta complaint on September 25 and 26, 1975, and issued Order No. 55 (46 CFR 506). Based upon the information gleaned from the section 21 Orders, the hearings before the STR, and other information available to the Commission, the Commission ascertained that cargoes subject to Decree 41-71 carried by U.S. vessels not associated with Guatemalan flag carriers were being fined by the Government of Guatemala. Furthermore, the preponderance of goods transported from the United States to Guatemala were subject to the Decree 41-71 penalties. Shippers were also discouraged from shipping any cargo on U.S. vessels be-
cause they could not determine which cargo was subject to Decree 31-71 and which cargo was not.

Those circumstances resulted in the diversion of cargo from U.S. and non-national carriers to the advantage of Guatemalan and their associates. Furthermore, delays in the transportation of goods had occurred because of the limited capacities of the Guatemalan carriers, which had discriminated against and potential entrants into the U.S.-Guatemalan trade had been discouraged if not precluded.

The Commission, therefore, found that not only was Decree 41-71 discriminatory on its face but that its implementation had created conditions unfavorable to shipping in the foreign trade of the United States.

By letter dated December 4, 1975, the Chairman of the Commission notified the Secretary of State of the Commission's findings in this matter. The Chairman's letter asked the Department of State to seek a diplomatic resolution of the problem, and advised that, absent such resolution by February 14, 1976, the Commission would have no recourse but to proceed in accordance with regulations which would impose countervailing fees on Guatemalan carriers and associated carriers transporting goods from the United States which are to be imported duty free into Guatemala.

On February 4, an earthquake devastated Guatemala and the Commission agreed, at the request of the Department of State, to postpone the implementation of this regulation.

In light of the lack of progress in the diplomatic negotiations with the Government of Guatemala, the Chairman of the Commission notified the Secretary of State on August 18, 1976, that the Commission had decided to issue a proposed rule pursuant to the authority of section 19(1) (b) of the Merchant Marine Act, 1936.

Issuance of this rule was again postponed on the basis of assurances by representatives of the Guatemalan flag lines that a satisfactory resolution of the problem would be forthcoming. However, this contemplated resolution failed to materialize and negotiations reached an impasse. Therefore, a proposed rule was issued and interested parties were given an opportunity to comment.

Comments to the proposed rule were received from Delta Steamship Lines, Inc. (Delta), Crowley Maritime Corp. (Crowley), Sea-Land Service, Inc. (Sea-Land), Transport Corporation of Chemical Latin America (Down), the Embassy of Guatemala, and Marine Chartering Co., Inc. (Maritime Chartering).

Delta commented that the Government of Guatemala has again been finding the importers of exonerated cargoes carried by Delta's vessels. Delta asserts that the Guatemalan lines have not only failed to resolve the problems in the U.S.-Guatemalan trade (which they had) but that the Commission should provide for any section 19 action in abeyance but that the Guatemalan lines had deliberately caused the imposition of fines against cargo carried by U.S. vessels to be reactivated.

Delta also points out that during the comment period of these rules, Decree No. 26-77 was introduced in the Congress of Guatemala, which has yet to be transmitted by the Guatemalan Congress to the President of Guatemala for signature, which will retain a similar discrimination against U.S. vessels. Instead of penalizing the users of U.S. carriers by imposing a fine of 50 percent of the ocean freight rate, Decree No. 26-77 would punish users of U.S. carriers by denying them the duty (tax) free benefits on the imports which are provided by their industrial development laws.

In light of the failure of both commercial and diplomatic negotiations, Delta suggests that the Commission has no recourse but to proceed with the promulgation of countervailing regulations.

Crowley states that their affiliated companies, Ocean Marine Lines, Inc. and Trailer Marine Transport Corporation, have had numerous audiences with officials of the Government of Guatemala and Guatemalan flag lines and that in an attempt to participate in the movement of cargo from U.S. to Guatemala.

Crowley states:

We have been totally unsuccessful in securing the desired administrative matters (duty of ocean freight) imposed by Guatemalan Decree 41-71. Our most recent meeting with Guatemalan authorities was during the week of July 12.

Crowley, like Delta, asserts that the new Guatemalan Shipping Law 26-77 would be, if finally adopted, just as discriminatory to United States flag line carriers as Decree 41-71. Crowley, therefore, also supports promulgation of countervailing fees on Guatemalan lines and their associates.

Sea-Land fully supports the Commission's proposed rulemaking to establish countervailing duties against Guatemalan carriers. However, Sea-Land suggests that the Equalization Fee be assessed against all cargo carried by Guatemalan carriers and refunds be given for cargo identified and proven to be not exempt. Sea-Land also suggests that the Commission require the Equalization Fee to be passed on to the shippers in full.

On the whole, we find Sea-Land's comments to be persuasive. Since we have found that most of the cargo moving to Guatemala does receive the benefits of the industrial incentive laws and that the Government of Guatemala keeps the benefits, granting a luxury or duty free status from being revealed, we are amending the final rules to require the "favoured carriers" to pay an Equalization Fee on all cargo and make a specific request for a refund of the Equalization Fee for any shipment which does not enjoy a duty free status under the industrial incentive laws. Refunds will not be granted for cargoes which have been subjected to penalties under Decree No. 41-71 in the past and will be granted only for cargoes which are clearly ineligible for duty free status under the industrial development laws of Guatemala.

The Equalization Fee is expected to be passed through the carrier to the shipper. The Commission recognizes that the "favoured carriers" may attempt to absorb the Equalization Fee by itself, does not stem the artificial diversion of cargo, further measures will be taken.

The Transportation Institute, a maritime industry research organization comprised of 186 member shipper companies, also supports issuance of countervailing regulation.

The Transportation Institute states that:

Because U.S. shippers often could not know the tax status of their exports until they were landed, and because the same commodity was sometimes subject to the penalty and at other times exempt, the Decree created chaos and was tantamount to 100 percent exclusion of U.S. carriers.

It also asserts that the Decree has caused delays in transportation and discourages new entrants into that trade.

The Transportation Institute therefore concludes that countervailing regulations are required; otherwise, other nations will be encouraged to establish similar discriminatory laws.

Dow also supports the proposed rules alleging that Decree 41-71 has caused it to suffer economic losses, lost business and other undue hardships. In support of these allegations, Dow states:

A. To date, Dow cargo routed to Guatemala on U.S. flag vessels have been fined more than U.S. $12,000 by the Guatemalan government.

B. To avoid such fines, Dow has been required to ship on "favored" U.S. flag lines, i.e., Plaquemine and Armapru. These lines offer relatively poor sailing schedules due to the shortage of vessels and the fact that their connecting vessels are comparatively old. This poor service has caused us to lose business due to our inability to ship our products on a timely basis.

C. Dow has suffered severe economic loss due in the fact that these lines are generally restricted to break-bulk service. We have consistently sought containerized service from these lines so that our losses and damages could be controlled and, hopefully, reduced. To date, Plaquemine still does not offer container service. Only recently, Armapru began to offer container services in limited numbers to Sea-Land.

This limited service is hardly adequate to cover the needs of U.S. shippers. This poor service has caused us to lose business due to our inability to ship our products on a timely basis.

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RULES AND REGULATIONS

This service is obviously not the most economical or timely. However, these Miami services do offer frequent sailings and house-to-house containerized service. This allows Dow to adjust to shipping break-bulk and possibly suffering severe losses or damaged cargo, or paying premiums and shipping via other ports. To determine how to meet the level of discrimination imposed by the Republic of Guatemala. Thus, the Equalization Fee is designed to eliminate the discrimination diversion of cargo to certain carriers in the U.S. to Guatemalan trade resulting from Decree 41-71, and to place all carriers in those trades on an equal competitive footing. Guatemala carriers and associated carriers who are authorized under Decree 41-71 to transport duty free goods from the United States to Guatemala will be designated as "favored carriers.

Pan American Mail Line, Inc., (Pan Am) has notified the Commission that their affiliations with Flomerca have ceased and that the joint Pan Am/Flomerca service known as Flomerca Trailer Service is now being exclusively operated by Pan Am. Pan Am d/b/a Flomerca Trailer Service has therefore requested that Flomerca Trailer Service be deleted from the list of "favored carriers.

The Commission is not convinced, however, that Pan Am d/b/a Flomerca Trailer Service is not still associated with Flomerca and receiving benefits under Decree 41-71. We are therefore issuing an Order under section 21 of the Shipping Act, 1916, directing Pan Am to produce such information as will allow the Commission to determine whether their "associated carrier" status has indeed ceased. If an analysis of Pan Am's response to the section 21 Order shows that Pan Am d/b/a Flomerca Trailer Service is still associated with Flomerca, the benefits and privileges of an associated carrier under Decree 41-71, then Flomerca Trailer Service will be deleted from the list of "favored carriers.

A "favored carrier" must file an Equalization Fee Payment Guarantee with the Commission to determine that equalization fees will be paid. The Equalization Fee Payment Guarantee (certified check or Surety Bond) is used to satisfy any unpaid Equalization Fee which is delinquent for more than 15 days. The time period of 15 days has been adopted because the Commission is of the opinion that a longer period would merely encourage delinquency and that 15 days is long enough for the carriers to clear up any unforeseen difficulties in paying in Equalization Fee.

Therefore, pursuant to Section 19(1) (b) of the Merchant Marine Act, 1920 (46 U.S.C. section 876(1) (b) ) and Sections 21, 29, 32, and 43 of the Shipping Act, 1916 (46 U.S.C. section 820, 826, 831 and 841a), the Commission hereby enacts Part 507, Title 46 CFR, as follows:

507.1 Conditions unfavorable to shipping in foreign trade with Guatemala.
507.2 Favored carriers without equalization fee payment guarantee precluded from U.S. trade.
507.3 Equalization fees: payment guarantees.
507.4 Summary reports of cargo carryings.
507.5 Equalization fees.
507.6 Delinquent reports or fees.
507.7 Incomplete, inaccurate or incorrectly completed forms.
507.8 Additional remedies.
507.9 Effective date.


§ 507.1 Conditions unfavorable to shipping in foreign trade with Guatemala.

The Federal Maritime Commission has determined that the Government of Guatemala has created conditions unfavorable to shipping in the foreign trade of the United States by precluding vessels of United States and third flag registry from competing in the ocean trade between the United States and Guate-
mala on the same basis as Guatemalan carriers or non-Guatemalan carriers which are associated with the former, and by discriminating thereby against vessels of the United States and third flag registry in favor of Guatemalan car-
riers and their associated carriers. For
the purposes of this part, the term "favored carriers" will be used to indi-
cate the following Guatemalan carriers or
carriers receiving preferential treatment as a result of Re-
public of Guatemala Decree No. 41-71:
(1) Armaquex Line; (2) Flota Mercante
Gran Centroamericana, S.A. (Flomerca);
(3) Lineas Maritimas de Guatemala, S.A.;
(4) Pan American Mail Line, Inc.,
d/b/a Flomenca Trailer Service; and (5)
Coordinated Caribbean Transport, Inc.,
(CCT). The Commission will modify this
list of "favored carriers" by notice in the
FEDERAL REGISTER, as circumstances war-
nant.
§ 507.2 Favored carriers without equali-
zation fee payment guarantee pre-
cluded from U.S. trade.
No vessel owned, operated, or con-
trolled by a vessel which carries cargo for the ac-
count of, a favored carrier, shall load
any cargo ultimately destined for Guate-
mala from any port or point in the United
States or exit a United States har-
borg while carrying such cargo unless the
favored carrier who owns, operates and
controls the vessel, or for whose account
the cargo is being carried on the vessel,
has an Equalization Fee Payment Guar-
antee on file with the Federal Maritime
Commission. Any vessel which carries
cargo in violation of this Part, any ves-
 sel owned, operated, controlled, or carry-
ing cargo for the account of an favor-
carrier who owns, operates or controls a
vessel which carries cargo in violation of
this Part, or any vessel owned, oper-
ated, or controlled by, or carrying cargo for
the account of a favored carrier for
whose account cargo is carried by a ves-
 sel which violates this Part may be pre-
cluded from entering any port or loading
cargo in any port of the United States by
the action of the Commission and shall
be subject to a civil penalty of not more
than $1,000 for each day such violation con-
tinues. Any carrier who owns, op-
erates or controls a vessel which carries
 cargo in violation of this or for
whose account a vessel carriers cargo in
violation of this part or for
whose account a vessel carriers cargo
violation of this part shall be subject to
a civil penalty of not more than $1,000
for each day such violation continues.
§ 507.3 Equalization fee payment guar-
antee.
(a) All "favored carriers" must file an
Equalization Fee Payment Guarantee by
filing FMC Form 147 and a certified
check or Surety Bond with the Secre-
tary, Federal Maritime Commission,
Room 11301, 1100 L Street NW., Wash-
ington, D.C. 20573.
(b) FMC Form 147 shall include:
(1) The name and flag of registry of
each vessel owned, operated, controlled,
or carrying cargo for the account of the
"favored carrier" which transported
cargo, either directly or by transship-
ment from the United States to Guate-
mala at any time during the twelve
months immediately preceding the
month of the application, and the name
and flag of each vessel expected to carry
such cargo, either directly or by trans-
shipment, from the United States to
Guatemala in the twelve months im-
mEDIATELY following the month of appli-
cation;
(2) The total for each month of freight
charges earned by each vessel on cargo
loaded in the United States and trans-
ported directly or indirectly to Guate-
mala during the twelve months immedi-
ately preceding the month of the appli-
cation;
(3) The signature of the carrier's U.S.
agent or U.S. representative, if any,
otherwise an officer of the carrier.
(c) FMC Form 147 must be accom-
panied by a Surety Bond (FMC Form
128), or certified check payable to the
Secretary of the Federal Maritime Com-
mision, in a U.S. dollar amount equal to
one sixth the freight charges earned by
each vessel identified in the applica-
tion, on cargo loaded in the United States
for unloading in Guatemala during the
twelve months immediately preceding
the month of the application, or in a U.S.
dollar amount of $75,000, whichever
greater.
(d) For purposes of this regulation,
freight charges are earned as of the date
on which the vessel departs its last U.S.
port of call.
(e) Surety Bonds (FMC Form 128)
must be issued by a bonding company
doing business in the United States and
listed in the current amended Depart-
ment of the Treasury Circular 570—
Surety Companies Annual List (Compa-
nies Holding Certificates of Authori-
ties as Acceptable Reinsuring Companies).
The face value of any Bond may not ex-
ceed the underwriting limitations on any
one risk (net limit) for the Surety listed
in the current Department of Treasury
Circular 570. Certified checks must be is-
sued by a bank or trust company incor-
porated under the laws of the United
States or a State having a Banking de-
partment, separately issued for each ship-
ment, giving:
(i) The name of the shipper;
(ii) The name and address of the con-
signee;
(iii) The tariff description of the cargo;
(iv) The revenue tons;
(v) The freight charges, enumerat-
ing:
(A) The tariff rate,
(B) Surcharges and arbitraries,
(C) Other charges properly assessed
against the cargo;
(D) The total of all such charges;
(vi) Whether a refund of the Equali-
zation Fee is claimed.
(b) If the reporting carrier has a U.S.
agent or U.S. representative, then the
Report must be signed by such agent or
representative, otherwise by the report-
ning carrier's Chief Executive Officer.
(c) For the purposes of these rules the
terms "revenue tons" shall mean the total of
(1) cargo rated by weight tons, and
(2) cargo rated by measurement tons;
The term "total freight" shall mean the total
value derived from the car-
rage of cargo, including (1) the tariff
rate, (2) surcharges and arbitraries, and
(3) all other transportation charges
properly assessed against the cargo.
If the reporting carrier wishes a
refund of the Equalization Fee on any
particular shipment, it must, show, to
the satisfaction of the Commission, that
the particular shipment is not receiving
benefit under the Guatemala Indus-
trial development laws or the Central
American Agreement on Tax Incentives for
Industrial Development.
§ 507.4 Summary reports of cargo car-
rying.
(a) Within four calendar days after
departure from the last United States
port of call of any vessel which is carry-
ing cargo ultimately destined for Guate-
mala and which is owned, operated or con-
trolled by, or carrying cargo for the
account of, a "favored carrier," such
favored carrier shall file with the Fed-
eral Maritime Commission, Office of the
Secretary, Washington, D.C. 20573, a
Summary Report of Cargo Carrying in
the Guatemala Trade (FMC Form 129)
showing:
(1) The date of the Report;
(2) The date the vessel departed its
last U.S. port of call;
(3) Name of the carrier;
(4) Name and flag registry of the
vessel;
(5) The ports of loading in the United
States;
(6) Guatemalan ports of discharge or
destination;
(7) For all cargo bound for Guate-
mala, either directly or through trans-
shipment, list the following:
(i) Total revenue tons,
(ii) Total freight (in U.S. dollars);
(iii) For all cargo bound for Guate-
mala (either directly or through trans-
shipment), separately list each shipment,
giving:
(i) The name of the shipper;
(ii) The name and address of the con-
signee;
(iii) The tariff description of the cargo;
(iv) The revenue tons;
(v) The freight charges, enumerat-
ing:
(A) The tariff rate,
(B) Surcharges and arbitraries,
(C) Other charges properly assessed
against the cargo;
(D) The total of all such charges;
(vi) Whether a refund of the Equali-
zation Fee is claimed.
§ 507.5 Equalization fee.
Each "favored carrier" required to file
a report pursuant to the provisions of
RULES AND REGULATIONS

By the Commission.

FRANCIS C. HURNEY, Secretary.

[FR Doc. 77-35646 Filed 12-15-77; 8:45 am]

[6712-01 ]

Title 47—Telecommunication
CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION
[PCG 77-808]

PART 0—COMMISSION ORGANIZATION

Delegating to Chief, Cable Television Bureau, Authority To Extend Application of Certain Rules To Prevent Interference to Aeronautical Radio Services

AGENCY: Federal Communications Commission.

ACTION: Rule amendment.

SUMMARY: Rule changes adopted July 27, 1977 provided that cable television systems must offset carrier frequencies from aeronautical radio frequencies in certain instances. It was anticipated that the applicability of the offset requirements might be extended in the case of larger than normal service areas of aeronautical radio stations. The current rule amendment delegates to the Chief, Cable Television Bureau, authority to require cable systems to offset their carrier frequencies under these special circumstances. Today's amendment includes no substantive changes.

EFFECTIVE DATE: January 1, 1978.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTAL INFORMATION:


Released: December 8, 1977.

In the matter of amendment of Part 0 of the Commission's rules to delegate the authority to require aeronautical radio offset requirements to cable television systems.

The rules adopted in this report and order will become effective 12:01 a.m., Eastern Standard Time, January 13, 1978.

FR Doc. 77-35646 Filed 12-15-77; 8:45 am]

[6712-01 ]

[Docket No. 20548, FCC 77-809]

PART 73—RADIO BROADCAST SERVICES

Multiple Ownership of Standard, FM, and Television Broadcast Stations; Rule Amendments and Stay of Effective Date Documents

AGENCY: Federal Communications Commission.

ACTION: Rule amendment.

[FR Doc. 77-35646 Filed 12-15-77; 8:45 am]
SUMMARY: Multiple ownership rules regarding regional concentration of control and the need for fixed rules governing concentration are discussed. The Commission's rulemaking process iscriticized for being too case-by-case, ambiguous, and inconsistent. It is argued that the new rules are needed to provide an equitable and predictable framework for evaluating ownership applications.

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4. Additionally, we stated that for purposes of this rulemaking, AM-FM combinations licensed to the same market would be counted as one station. However, we did not define "market" for this purpose. Further, we drew no distinction between UHF and VHF television broadcast stations, although we had done so in the previous rulemaking. The new rules became effective April 22, 1977.

THE PETITIONERS

5. Petitioner, Suburban Radio Group, Inc. (Suburban), "is a corporation owned by the licensee corporations of eight AM and FM stations located in small market communities in Virginia and North Carolina." On January 4, 1977, suburban's subsidiary, Southern Piedmont Broadcasting Co., entered into an assignment of license by the licensee, Town and Country Broadcasting Co., licensee of station WGGD, Chester, S.C. The application covering this transaction was filed on March 1, 1977. The application amended the original one filed on March 23, 1977, and accepted for filing on March 28, 1977. During the period between the filing and acceptance dates, the Commission on March 9 adopted, and on March 22 issued the "First Report and Order in this docket". Further, we stated that the new rules are not needed. It maintains that the Commission failed to identify the "clusters" of commonly-owned stations which prompted the rulemaking. Petitioner further states that the previous lack of predictability in our regional concentration considerations is not a valid reason for the implementation of new restrictive rules. In the alternative, petitioner asks to be relieved of the burden of compliance with the new rules, based upon the fact that the application had been filed prior to the date of the new rules.

6. Petitioner, Town and Country Radio, Inc. (Town), is an applicant in a multiple ownership rulemaking proceeding. The application was designated for hearing on February 22, 1977, and accepted for filing on March 23, 1977, and accepted for filing on March 28, 1977. The petitioner states that the new rules are not needed. It maintains that the Commission failed to identify the "clusters" of commonly-owned stations which prompted the rulemaking. Petitioner further states that the previous lack of predictability in our regional concentration considerations is not a valid reason for the implementation of new restrictive rules. In the alternative, petitioner asks to be relieved of the burden of compliance with the new rules, based upon the fact that the application had been filed prior to the date of the new rules.


8. We believe that our new rules must become effective on a date certain, and that the Rulemaking Proceeding under the Administrative Procedure Act matures into an effective new rule, compliance with the new rule is required. We note that no party has alleged any irregularity in the rulemaking process. The mere filing of an application confers no rights and vests no interests in a party, and such applications must conform in all respects to the rules of the Administrative Procedure Act. With respect to equitable considerations pressed by the petitioners, we believe it inappropriate to consider the merits of any application within the context of this rulemaking proceeding. Any equitable arguments which Town and Laredo may wish to make, or any requests for waivers, should be made within the context of the hearing proceeding.

9. With respect to Suburban's petition, we believe petitioner had more than adequate notice of the Commission's intention to promulgate rules in the area of regional concentration of control. The "Notice of Proposed Rule Making", supra, was released July 15, 1975, and amended July 23, 1975. In that "Notice" we offered several alternatives for comment. One such alternative would have barred the acquisition of a third station within 100 miles of a presently owned station. Such a rule, if adopted, would have been even more stringent toward applicants but not be exempted from compliance, the Bureau failed to notify Town of this in the "Initial Decision", supra.
than the rule actually adopted, which includes power (contour) considerations. The "Notice" was released nearly one and one-half years prior to the signing of the contract. Additionally, the Commission issued a Public Notice of Action in Docket Case entitled "New Multiple Ownership Rules Adopted (Docket No. 77817)" on February 7, 1977 (Report No. 12677; Mime No. 77817) describing fully and completely the new regional concentration of control rule. Thus, public notice of the rule adopted was given even prior to the filing of petitioner's application. Accordingly, we reject petitioner's request for exemption from compliance with the new rules. We will stay dismissal of the application, without prejudice, for 30 days to afford petitioner time to file a request for waiver based on substantive rather than procedural bases.

OTHER MATTERS

10. There remain two matters which we now find need clarification based upon our experience with administering the new rules. As noted previously in this document, we did not distinguish between UHF and VHF television stations as to the "Order". We believe that such a distinction should be drawn in order to continue to foster the development and growth of UHF stations. Accordingly, an application raising a regional concentration question under the new criteria which involves overlap by or of one or more UHF stations will be treated on a case-by-case basis. Such consideration will be made consistent with the best interests of UHF television development. The threshold of a regional concentration issue (three stations and contour overlap) will remain unchanged with each UHF station still being counted as one station; however, if the overlap involves a UHF station, such ownership pattern will not automatically be barred.

11. Additionally, we had previously determined that for purposes of this rulemaking, AM-FM combinations of the same market would be counted as one station. We have since found that the term "market" must be precisely defined for purposes of this rule, in that applicants had begun to submit lengthy showings attempting to convince us that quite clearly distant cities were within the same market. Inasmuch as our effort in this rulemaking was to bring predictability into this area of our ownership regulations and to obviate the need for lengthy showings in favor of a fixed rule, we have decided to specify a fixed standard defining "market" under the regional concentration rule.

12. We have determined, therefore, in the case of urbanized areas, to count an AM-FM combination as one station if they are both licensed to communities within the same urbanized area as defined and mapped by the U.S. Bureau of the Census. Additionally, in the case of both urbanized and non-urbanized areas, we will count an AM-FM combination as one station if the communities of license are within 15 miles (city reference point to reference point).

13. As we have stated earlier, our regional concentration rule is based upon criteria, distance and overlap, which must both be present for the prohibition to be applied. In our examination of the overlap criterion, we will not consider primary service overlap between AM-FM services as defined in the preceding paragraph. However, we will not allow an applicant to add an FM station to its AM station, or vice versa, if such addition would either create new primary service contour overlap or exacerbate existing primary service contour overlap with an applicant's other stations.

14. Accordingly, it is ordered, That the Petitions for Reconsideration filed in this docket by Suburban Radio Group, Inc., Town and Country Radio, Inc., and Ricardo L. Segarra, d/b/a Lares Broadcasters, are denied.

15. It is further ordered, That the First Report and Order in this docket is modified to the extent indicated and is affirmed in all other respects. It is further ordered, Pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, that §§ 73.35, 73.240, and 73.636 of the Commission's rules and regulations are amended as set forth below, effective January 16, 1978.

16. There remain two matters which we now find need clarification based upon our experience with administering the new rules. As noted previously in this document, we did not distinguish between UHF and VHF television stations as to the "Order". We believe that such a distinction should be drawn in order to continue to foster the development and growth of UHF stations. Accordingly, an application raising a regional concentration question under the new criteria which involves overlap by or of one or more UHF stations will be treated on a case-by-case basis. Such consideration will be made consistent with the best interests of UHF television development. The threshold of a regional concentration issue (three stations and contour overlap) will remain unchanged with each UHF station still being counted as one station; however, if the overlap involves a UHF station, such ownership pattern will not automatically be barred.

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Diary of Commerse Service. New Jersey cites the following example: ‘The Rail Services Planning Office was requested the Rail Services Planning Office to undertake reduction of a double track railroad segment. The Consolidated Rail Corporation (ConRail) has submitted a statement of its position with regard to the interpretations requested by New Jersey. The interpretations contained herein are issued in response to New Jersey’s request; the Office has considered all of the issues raised by both New Jersey and ConRail in the formulation of these interpretations. The issue are addressed in the order in which they were presented by New Jersey.

1. **Modification of facilities which would remain in use after termination of commuter service.** To illustrate the question in which it wishes to have resolved, New Jersey cites the following example: Elimination of commuter service may permit reduction of a double track railroad segment with directional signaling (ABS signal system) to a single track railroad signal for (or operating in its place “$209.9” (42 FR 55745, column 2).

**FOR FURTHER INFORMATION CONTACT:**


**RAYMOND K. JAMES, Chief Counsel.**

[FR Doc.77-35698 Filed 12-13-77; 8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

**PART 1127—STANDARDS FOR DETERMINING COMMERCE RAIL SERVICE COMMISSION, MODIFICATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS**

**Interpretations of Standards**

**AGENCY:** Rail Services Planning Office, Interstate Commerce Commission.

**ACTION:** Publication of interpretations.

**SUMMARY:** Pursuant to §1127.10 of Title 49 of the Code of Federal Regulations, the Rail Services Planning Office is publishing seven interpretations of its Commerce Standards which were effective August 8, 1976. Each interpretation gives the date it was issued.

**FOR FURTHER INFORMATION CONTACT:**

James R. Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, Interstate Commerce Commission, 1900 L Street NW., Washington, D.C. 20590, area code 202-244-7552.

**INTERPRETATION No. 1—Issued June 17, 1977**

On March 10, 1977, the State of New Jersey, through its consultant, L. E. Peabody & Associates, Inc. (Peabody), requested the Rail Services Planning Office (the Office) to issue several interpretations relating to §1127.8 of the Standards (§1127.5 covers the avoidable costs of providing service). The Consolidated Rail Corporation (ConRail) has submitted a statement of its position with regard to the interpretations requested by New Jersey. The interpretations contained herein are issued in response to New Jersey’s request; the Office has considered all of the issues raised by both New Jersey and ConRail in the formulation of these interpretations. The issue are addressed in the order in which they were presented by New Jersey.

1. **Modification of facilities which would remain in use after termination of commuter service.** To illustrate the question in which it wishes to have resolved, New Jersey cites the following example: Elimination of commuter service may permit reduction of a double track railroad segment with directional signaling (ABS signal system). This modification would permit reduction in ongoing track maintenance costs. However, in order for one track to be eliminated, the ABS signal system on the remaining track would have to be modified. In addition, switches located on the track to be eliminated, which are served by industries, must be relocated to the remaining track. The one-time costs (costs incurred during the modification process) must be considered in determining the carrier’s net savings.

New Jersey contends that such one-time costs should be converted to an annual basis, with the resulting figure subtracted from avoidable costs in computing the overall net avoidable costs. However, in a supporting document, a letter, dated February 18, 1977, from Peabody to ConRail, the statement is made that “* * * these one-time costs will be credited against property and facility valuations for the purpose of computing net R.O.I. payable by NJDOT.”

ConRail has not addressed the question of whether an amount for such one-time modification costs should be subtracted from avoidable costs in computing the overall net avoidable costs; however, ConRail did address the question of whether such costs should be credited against property and facility valuations for the purpose of computing net return on investment. ConRail states that the language of §1127.6(b) “* * * contains no basis to support the New Jersey position that modification costs are to be separately determined and deducted from the value of rail properties upon which ConRail is entitled to receive reasonable return on value.” ConRail thus concludes that New Jersey’s requested interpretation is “* * * clearly without foundation under the Standards.”

New Jersey is incorrect in contending that an amount for one-time modification costs should be subtracted from avoidable costs in computing their current market value. The current market value of such property is determinable on a strictly avoidable approach. Thus, §§1127.6(b) provides for the inclusion of “* * * those roadway and structures properties which are used in commuter service and which could be disposed of if commuter services were discontinued.” In justification of its approach, the Office stated in the Report which accompanied the order promulgating the standards that “[t]he development of the standards and the procedures for implementing them, the Office has endeavored to steer a reasonable course between the near-term extremity of out-of-pocket costs and the ultimate of long-range, large-scale developments, the costs of which could be avoided only if commuter services were discontinued.”

The situation presented by cessation of subsidized commuter service is admitted different than that presented by

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subsidized freight service, since, in many cases, upon termination of subsidized commuter service, the properties will continue to be used in the provision of other rail service; whereas, in most cases, upon termination of freight service the properties will no longer be used in providing freight service. However, the philosophy underlying the freight and commuter standards is the same. Just as the value of the freight properties must be adjusted to take into account all costs of dismantling and disposition necessary to make the properties available for their highest and best use, the value of the properties used in commuter service must be adjusted to take into account all costs of modifying the remaining properties so that non-commuter operations can be continued on them.

2. Increases in operating costs for remaining services after termination of commuter service. New Jersey cites two examples to illustrate this area. First, with regard to facilities, New Jersey states that:

In some instances, the railroad may be able to abandon a particular facility in the absence of passenger service but would have to construct and operate an alternative facility to supply the reduced level of service required by remaining operations.

For example, an existing power plant may be abandoned if power can be provided by another heat remaining facilities. The net savings from eliminating the power plant are then the total savings less the cost of constructing (or buying) and operating the alternative heating system.

New Jersey contends that such modification costs should be converted to an annual basis and subtracted from avoidable costs in the computation of the overall net avoidable costs. In addition, New Jersey contends that "**total labor savings, fuel savings and other savings would be reduced by the amount of labor required and the fuel and other supplies necessary for operating the alternative heating system."

In its second example, with regard to operations, New Jersey states that, as a consequence of strict avoidability and the downgrading instituted as a result of termination of commuter service, freight train speeds may be reduced and it may take longer, and cost more, to provide service over the line. New Jersey contends that any such cost increases "**should be treated as a credit against passenger service avoidable costs, as the net saving to the carrier will be the cost reduction as a consequence of eliminating passenger service less the cost increases incurred in the absence of passenger service operations."

In its comments on these examples, ConRail points out that they are premised upon a determination of the avoidable cost of discontinuing rail commuter service, whereas, the commuter standards were premised upon the actual cost of providing commuter service. Therefore, New Jersey's examples do not comport with the basis upon which the standards were formulated. ConRail specifically disputes New Jersey's second example, contending that "**the existing commuter service operations occasion far greater delays and consequent increased operating costs than any hypothetical additional train delay attributable to the modification of rail properties upon termination of commuter service."

ConRail is correct that both examples cited by New Jersey are based on the erroneous assumption that the operating costs incurred by the carrier are to be determined on a strictly avoidable basis (see 41 FR 26936 and 41 FR 32546). As pointed out in the discussion on page 4 of this interpretation, since operating costs are based on use, the question of what savings or modification costs would attend upon the termination of commuter service has no bearing on the actual costs of providing the service. It should be pointed out that, for purposes of determining the value of the heating plant, used in New Jersey's first example, it would be appropriate to consider whatever modification costs would be necessary to either eliminate the facility to convert it upon the termination of commuter service.

3. Excess facilities not required for current passenger and freight operations which may be used in the future. New Jersey assumes that, in a certain area, a carrier has four tracks over which both freight and commuter services are being operated. The subsidizer conducts a study which shows that only two of the four tracks would be needed to support the passenger operations; the carrier claims that only one of the tracks would be necessary for continued freight operations. If the study shows that there were terminated, New Jersey concludes that either the freight service actually requires two tracks, or there is excess capacity in the system, and states that the facility where avoidability is not contingent on the elimination of passenger service should not be included in the determination of avoidable costs to the extent that the capacity is used by passenger service. ConRail has discussed under headings Numbers 1 and 2 above, New Jersey is confusing the concept of strict avoidability and the concept of use. If there are excess facilities, not needed in the provision of the freight and commuter services, agreement should be reached with the operator to eliminate those facilities from the facilities utilization plan for the next subsidy year. However, so long as the facilities are being used in the provision of the commuter service, their costs are properly includable in the determination of the avoidable costs of providing the service.

ConRail, in its response to this point, has stated that "**the event that excess rail facilities are excluded from remaining services, ConRail must insist that it have the right unilaterally to remove any such rail properties and make necessary modifications to conform schedules to the modified plan." ConRail contends that any train delay in operations or increased maintenance of way expense as a result of elimination of the facilities and attributable to the commuter service operation should be chargeable to the subsidized as an avoidable cost of providing the service. The Office believes that the question of ConRail's right to remove the excess facilities and make modifications to conform schedules to the modified plan, is properly addressed in Interpretation No. 1. This section, which the parties should reach agreement at the same time that they reach agreement to exclude certain facilities from the return-on-value payment. However, it is clear that, once agreement is reached that no longer needed in the provision of the commuter service, the railroad would have the right to do whatever it wanted with that facility. Therefore, if there is some reason that the facility might be useful to the subsidizer in the future, he should attempt to reach agreement with the railroads so that the facility will not be removed. ConRail's second point that any resultant delay in operations or increases in costs of maintenance of way should be chargeable to the subsidizer would be correct only to the extent that the facility can no longer be used for the track used in the provision of the commuter service. Since the cost of commuter service is based on those facilities used or useful in the provision of the service, any increased cost in the operation or the maintenance of way of track devoted exclusively to freight service would not be included in the computation of the avoidable cost of providing the commuter service.

INTERPRETATION No. 1 (RECONSIDERATION)—ISSUED NOVEMBER 14, 1977

On June 17, 1977, the Rail Services Planning Office (the Office) issued its Interpretation No. 1 relating in part to the determination of the value of the properties used in providing commuter service. Specifically, the Office ruled that "the value of the properties used in commuter service must be adjusted to take into account all costs of modifying the properties used in the non-commuter operations so that non-commuter operations can be continued over them." By letter dated August 22, 1977, Consolidated Rail Corporation (ConRail) requested the Office to withdraw this aspect of Interpretation No. 1 and, should the Office desire to pursue the matter further, to institute formal rulemaking. The State of New Jersey, which originally sought the interpretation, did not respond to ConRail's request.

Sections 1127.6 and 1127.7 of the Commuter Standards provide that the owner of properties over which commuter service is operated is entitled to a return on the net book value of such properties which could be disposed of if commuter service were discontinued. Section 1127.6(b) states that "net book value shall include the net liquidation value of the properties, plus any net book valuation that is determined for their highest and best use other than rail transportation purposes, plus the value of additions and betterments after that date for commuter operations which could be disposed of if commuter service were discontinued."

Under Interpretation No. 1, the hypothetical cost of modifying the remaining rail properties to permit non-commuter operations must be subtracted from the
net value of the avoidable properties before determining the return on value payment.

In support of its position, ConRail asserts that net liquidation value and hypothetical modification costs constitute essentially two disparate sets of values which are not subject to meaningful comparison. ConRail says that net liquidation value is:

Comprised of the discounted present value of modifications, determined by the liquidation of all railroad properties in a special valuation process after a substantial period of operation. On the other hand, modification costs would include the anticipated and hypothetical costs of modifying existing rail properties at existing values and costs.

ConRail asserts that utilization of these two disparate sets of values "has the effect of significantly reducing, if not eliminating, the return on value payments to be made to ConRail and thereby nullifies the requirements of Section 304(c) (2)" which provides that a reasonable return on value payments used for commuter service be made. It further asserts that it "may potentially be at risk if it accedes to the Interpretation's imposition of a concept of net liquidation value inconsistent with the language of § 1127.3(b) or section 1127.5(b) or may hereafter assert" in the Special Court's valuation proceedings.

Upon consideration of ConRail's position, the Office affirms its ruling regarding modification costs. Under § 1127.3(b), the Facilities Utilization Plan is to be revised each subsidy period to determine what road properties are to be used in providing commuter service for the subsequent subsidy period. The values of these properties should reflect their net book value at the beginning of the subsidy period, including any additions or betterments made in the prior subsidy period. These additions or betterments would have been entered on the books at cost, not at discounted net liquidation value. In the same fashion, the hypothetical modification costs that have accumulated on modifying the properties should be retained for freight or intercity passenger service, if commuter service were discontinued, should also be valued at cost for each subsidy period. The value of these hypothetical modification costs incurred for the initial subsidy year is to be computed as of April 1, 1976. Subsequent valuations shall be as of the beginning of each new subsidy period.

The Office fails to perceive how ConRail's agreement to hypothetical costs could have a bearing on, much less jeopardize, its position in the Special Court valuation proceeding. Presumably, the Special Court is concerned with the value of the property acquired by the trustee of the debtor estates and not with additions or betterments thereto, much less hypothetical modification costs.

The parties may of course agree upon reasonable variations from this procedure, subject to review by the Office. Thus, they may decide to forego periodic valuation and simply carry forward the April 1, 1976 modification costs (less depreciation) into subsequent subsidy periods.

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**INTERPRETATION No. 2—Issued June 17, 1977**

By a letter, dated March 14, 1977, the State of New Jersey to the Office of Transportation requested an interpretation of § 1127.3(e) of the standards with regard to whether or not a subsidizer may make an offer of subsidy for the second subsidy year after the regular payment under the present agreement, and the advance payment for the subsequent year's agreement.

Section 1127.3(e) (4) was not intended to produce the result envisioned by New Jersey. The language of the section stipulates four things that must be contained in an offer of subsidy, one of which is a subsidy payment for the first month of service in the second year. New Jersey noted that, if the section were interpreted to require such a payment, a subsidizer could have modified the properties in that offer for a payment for the first month of service in the second year. New Jersey also noted that, if the section were interpreted to require such a payment, the subsidizer could have modified the properties in that offer for a payment in the same month, the regular payment under the present agreement, and the advance payment for the subsequent year's agreement.

ConRail asserts that utilization of these two disparate sets of values "has the effect of significantly reducing, if not eliminating, the return on value payments to be made to ConRail and thereby nullifies the requirements of Section 304(c) (2)" which provides that a reasonable return on value payments used for commuter service be made. It further asserts that it "may potentially be at risk if it accedes to the Interpretation's imposition of a concept of net liquidation value inconsistent with the language of § 1127.3(b) or section 1127.5(b) or may hereafter assert" in the Special Court's valuation proceedings.

Upon consideration of ConRail's position, the Office affirms its ruling regarding modification costs. Under § 1127.3(b), the Facilities Utilization Plan is to be revised each subsidy period to determine what road properties are to be used in providing commuter service for the subsequent subsidy period. The values of these properties should reflect their net book value at the beginning of the subsidy period, including any additions or betterments made in the prior subsidy period. These additions or betterments would have been entered on the books at cost, not at discounted net liquidation value. In the same fashion, the hypothetical modification costs that have accumulated on modifying the properties should be retained for freight or intercity passenger service, if commuter service were discontinued, should also be valued at cost for each subsidy period. The value of these hypothetical modification costs incurred for the initial subsidy year is to be computed as of April 1, 1976. Subsequent valuations shall be as of the beginning of each new subsidy period.

The Office fails to perceive how ConRail's agreement to hypothetical costs could have a bearing on, much less jeopardize, its position in the Special Court valuation proceeding. Presumably, the Special Court is concerned with the value of the property acquired by the trustee of the debtor estates and not with additions or betterments thereto, much less hypothetical modification costs.

The parties may of course agree upon reasonable variations from this procedure, subject to review by the Office. Thus, they may decide to forego periodic valuation and simply carry forward the April 1, 1976 modification costs (less depreciation) into subsequent subsidy periods.

In support of its requested interpretation, New Jersey states that, given the substantial cost of providing commuter service, the State "** * * may have to consider which are the most important segments of commuter service to support if funds do not permit continuing all present commuter service or service in New Jersey. One input to such a decision is the estimated cost of each component of the service which might be continued, modified, or eliminated. However, the Office does not believe that §§ 1127.3(a) and (b) can be interpreted to provide that the railroad must provide a subsidy estimate delineated by line segment and/or service area. It should be noted that New Jersey could achieve its objective by filing a number of different notices of intention, broken down on either a service area or line-by-line basis. ConRail would be required to provide a subsidy estimate for each notice. However, the Office is of the opinion that, if such a course of action should be avoided, if possible, because of the difficulty and the cost that would be involved in the development of the necessary data.

As ConRail notes in its response, some of the costs involved would be difficult, if not impossible, to apportion on a line-by-line or service area basis. For example, an employee may sell commuter tickets for several different commuter lines. How would the cost of that employee be apportioned? Similarly, several different commuter lines may share some facilities, such as a downtown station. How would the costs of the station be apportioned? Furthermore, many commuter services operate over a common line before branching out. There are even some instances where a commuter train might travel a certain distance out of the city and then split into some cars going to one destination and some to another. The work involved in apportioning the costs in such circumstances would be significant and would result in increased administrative costs.

The Office notes that ConRail, in its response, states that it is willing to comply with reasonable informational requests and that it is prepared to develop such information in cooperation with New Jersey. The Office would encourage the parties to work together to reach an agreement that provides New Jersey with the data that it needs without creating unreasonable demands on ConRail's personnel and without, consequently, greatly adding to the administrative costs of the commuter service subsidy program in New Jersey.

**INTERPRETATION No. 4—Issued September 6, 1977**

On April 18, 1977, the Maryland Department of Transportation (MDOT), through its consultant, E. E. Pea & Associates, Inc., requested the Rail Services Planning Office (the Office) to issue...
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an interpretation of §1127.3(d) (3) of the commuter standards. Section 1127.3 (d) (3) provides as follows:

(3) Insignificant Use. A subsidizer proposing incidental use of rail properties in the designated area may be assigned the directly identifiable costs incurred in providing the commuter service, plus an allowance for overhead negotiated as the parties. If the parties are unable to agree on an overhead allowance, the methodology for apportioning overhead costs specified in §1127.5 shall apply.

MDOT poses the following questions concerning the interpretation of this subsection:

1. Does the commuter rail passenger service operated by ConRail over Amtrak properties between Baltimore and Washington, and subsidized by MDOT, constitute insignificant use of rail properties in a designated area?

With regard to the second question, MDOT contends that any overhead allowance negotiated by the parties may not exceed the amount that would be ascertained by apportioning common costs under §1127.5.

The Consolidated Rail Corp. (ConRail) responded to MDOT's submission on May 3, 1977. ConRail does not dispute that the Baltimore-Washington commuter service constitutes an insignificant use of the Amtrak properties. "...the insignificant use overhead allowance policy was adopted to provide a mechanism for the parties to minimize the expense and manpower demands incident upon the more complicated procedures required under §1127.5 and contends that "(t)here is no indication in the standards that the amount of apportioned common costs under the §1127.5 methodology should serve as a maximum for the insignificant use overhead allowance." ConRail also argues that the questions posed by MDOT were raised and disposed of by the Office during the rulemaking proceeding. Consequently, ConRail contends that MDOT is precluded from using the §1127.10 interpretation mechanism to reargue the issue. ConRail also asserts that it had no knowledge that a dispute existed with MDOT until the present request for an interpretation was filed; that the interpretation mechanism was not intended to serve as a vehicle to circumvent negotiation between the parties; and that the Office should not have departed from the interpretation mechanism be used as a vehicle of last resort respecting resolution of questions and disputes regarding the standards.

The Office believes that ConRail is adopting too legalistic an approach to the interpretation process. The process was adopted to assist the parties who must work with the standards by providing a method whereby the Office could answer questions about the standards, assist the parties in understanding specific provisions and help in resolving disputes over the meaning of the standards, all without having to resort to the more complicated and time-consuming formal rulemaking procedure. Section 1127.10 states that the Office will issue an interpretation, unless it concludes that the matter raised requires amendment of the standards, in which case the Office will institute a rulemaking proceeding. The Office notes that some requests for interpretations will involve issues considered in the formulation of the standards. The Office will decide in such instances whether the matter is an appropriate use for interpretation or whether it should more properly be considered a petition to reconsider or reopen the standards. In keeping with the desire of the Office to ease the burden of the parties and the Office, the Office will be inclined to handle such matters by interpretation whenever possible.

With regard to ConRail's second point, the Office notes that the interpretation process should not be used to circumvent negotiations, nevertheless, the parties may request an interpretation of the standards at any time, before, during or after a negotiated settlement. However, reserve the right to defer such a request should it feel a ruling would impede negotiations.

Turning to the questions raised by MDOT, the Washington commuter service involved on the order of 40,000 train miles per year, the Office would agree that it does constitute an insignificant use of this high-density route. Thus, to minimize administrative burden, Conrail and MDOT should undertake an appropriate allowance for overhead, pursuant to §1127.3 (d) (3). MDOT is not correct in asserting that any overhead allowance negotiated by the parties may not exceed the amount that would be allocated by apportioning common costs pursuant to §1127.5. Such a condition could defeat the intent of the standards. The overhead allowance provision was included in the standards to avoid costly and time-consuming allocations of common costs in cases of insignificant use. Thus, the Office's approach, these allocations would have to be made in any event to insure that the overhead allowance did not exceed the amount determined under the apportionment method. The Office does not believe it appropriate to establish guidelines for determining the overhead allowance. Rather, it is incumbent upon the parties to negotiate the allowance in the first instance, and to submit it to the Office for review under §1127.3(d). The Office would not expect to disapprove an overhead allowance which is the product of arm's-length bargaining and is shown to be reasonable in light of the pertinent facts and circumstances.

INTERPRETATION NO. 5—ISSUED SEPTEMBER 6, 1977

On May 25, 1977, the Consolidated Rail Corporation (ConRail) submitted to the Rail Services Planning Office (the Office) of the Interstate Commerce Commission a request for an interpretation of §127.8 of the standards. Specifically, ConRail requested an interpretation as to:

1. Whether ConRail is entitled to the payment of interest on overdue payments of the Federal funded portion of rail service continuation payments to be made under §127.8 of the standards.

2. Whether the Secretary of the Department of Transportation (the Secretary) is required to reimburse subsidizers under the Federal subsidy program for the payment of such interest.

ConRail's questions are particularly concerned with §127.8(g) of the standards which provides:

The amounts of interest accrued on overdue payments under §127.8(e) shall be excluded from available costs under §1127.5 for the purposes of determining the reimbursement by the Secretary of additional costs under §1127.8(c).

The Department of Transportation (DOT), through its General Counsel, has filed a response to ConRail's request. DOT's response, dated August 8, 1977, states that DOT believes that the Urban Mass Transportation Act (UMT Act) have been delayed by the absence of certifications from the Department of Transportation concerning the adequacy of labor-protective arrangements associated with the grant projects. Such certifications are required by sections 13(c) and 17(c) of the UMT Act. Thus, section 17 money can be released. (Labor-protective arrangements are still being negotiated by the respective transit authorities (the grantees) and the affected labor unions.) After stating its belief that it is in the interest of the Federal government that the grantees have adequate opportunity to negotiate reasonable labor agreements, DOT concludes that section 17 funds can be used to reimburse interest payments at the rate specified by the standards, with the following conditions:

1. DOT shall not be obligated to pay any interest which is accrued after the date on which the grantee has transmitted the delayed portion of section 17 grants, even if actual payment is delayed for some time thereafter; and

2. Such interest shall be payable only on the delayed portion of section 17 grants, and not on delayed payments of section 5 funds programmed at section 5 grants. ConRail is correct in interpreting section 127.8. In explanation of the first condition, DOT notes that it does not have any control over the time at which the grantee transmits grant funds to the railroad. As to the second condition, DOT notes that section 5 funds are programmed at the discretion of the grantee, and it is the grantee's responsibility to assure that they are received in time to make the required payments. Furthermore, section 5 grants have not generally been delayed by difficulties in obtaining a section 13(c) certification.

The Office believes that the DOT position is both reasonable and in keeping with the intent of the standards.

Section 1127.8(g) was included in the standards on the assumption that the Federal share of subsidy payments would
To assist the subsidizer in making the monthly interim subsidy payments required under § 1127.4(e), the Office shall monthly in advance to the subsidizer the estimated amounts for reimbursement of additional costs.

The Office did not envision a situation wherein the Secretary would not make the advance payments called for by the standards. Consequently, § 1127.8(g) was intended to apply only to delays in payment occasioned by the subsidizer, and the subsection does not interpret § 1127.3(e) in the determination of avoidable costs of the interest paid on the Federal portion of subsidy payments where the payment is delayed as a direct result of the failure of the Secretary to make advance payments under § 1127.8(h).

Therefore, the Office concludes that ConRail is entitled to the payment of interest, for the period between the date that an advance payment is due from the Secretary and the date that the grant is actually released to the subsidizer, and the subsidizer is entitled to be reimbursed any funds expended in the payment of such interest.

INTERPRETATION NO. 6—ISSUED NOVEMBER 14, 1977

By letter dated August 12, 1977, the New Jersey Department of Transportation (NJDOT), by and through its consultant L. E. Peabody & Associates, Inc., requested the Rail Services Planning Office (the Office) to interpret § 1127.5 of the Commuter Standards which provides in pertinent part:

Fringe benefits shall be assigned on a basis of a percentage of total wages. The percentage shall be determined by using data from the railroad's latest Form R-1 (emphasis supplied).

NJDOT suggests that the phrase "latest Form R-1" be construed to mean the Form R-1 applicable to the time period covered by the contract.

The commuter regulations require the railroad to compute a subsidy estimate for a "base period", which means a minimum of 3 months and a maximum of 12 months. NJDOT states that the latest traffic, revenue and cost data are available § 1127.1 and 3(d).

The subsidy estimate is to be adjusted after the subsidy period based upon the actual revenues, expenses and value of the properties used. The railroad has 80 days from the close of the subsidy period in which to file a final financial status report and the parties have another 80 days in which to adjust the final subsidy payment (§ 1127.3(e) and (f)).

To illustrate, NJDOT points out that the fringe benefit estimate for the current subsidy period (beginning July 1, 1977) would be based upon 1976 Form R-1 data. NJDOT observes that the railroad fringe benefit percentage based on its 1977 Form R-1 may be different (either higher or lower) than if based upon the 1976 Form R-1. NJDOT concludes that while the railroad's 1977 Form R-1 will not be available until around the end of March 1977, it seems "equitable and appropriate" for the railroad to be reimbursed for fringe benefits computed from a Form R-1 relating to the subsidy period.

By letter dated September 23, 1977, the Consolidated Rail Corporation (ConRail) acknowledges its agreement with the principle underlying NJDOT's request. ConRail advises that it has no objection in the adjustment of fringe benefit costs based upon Form R-1 data for the subsidy period. ConRail suggests, however, that the adjustment need only be deferred with respect to those commuter services which are continuing operations pursuant to Section 304(c) of the RRR Act. That is, if commuter service is discontinued, presumably ConRail would not want to wait an extended period before making the fringe benefit adjustment.

The Office would not disapprove an agreement between the subsidizer and the railroad for the adjustment of the final subsidy payment until Form R-1 data is available for the subsidy period. In the absence of an agreement, the adjustment required by the subsection does not bar the inclusion of such interest.

ConRail, by letter dated September 23, 1977, requests the Rail Services Planning Office (the Office) to construe § 1127.4(a) and (b) (2) of the commuter standards concerning revenues, rentals, and rental income generated at fixed facilities. NJDOT points out that some fixed facilities, for example, parking, which is not attributable to passenger service, citing as an example, New York's Madison Square Garden which is part of the Penn Station complex. NJDOT recommends that a similar approach be applied in separating attributable and nonattributable passenger revenues. That is, the criterion for determining revenues attributable to commuter passenger service should those revenues, rentals, and rental income which would not be received in the absence of commuter service.

The Consolidated Rail Corporation (ConRail) opposes NJDOT's request asserting that the standards are clear with respect to the allocation of revenues generated at fixed facilities. ConRail points out that NJDOT's example of the Madison Square Garden was used by third parties. In such circumstances, § 1127.4 of the standards requires ConRail to credit the commuter service with the amounts of such revenues or rents credited to it by the third party and to use its best efforts to negotiate equitable agreements.

The Madison Square Garden is owned by the Penn Central trustees and not by Amtrak. A review of Penn Central's Form R-1 as of April 1, 1976 discloses that revenues relating to the Madison Square Garden were credited to Account 511, which is a non-operating account and is not included in the commuter standards.

There may be instances where miscellaneous revenues, e.g., coin lockers, newsstand concessions, parking outside a station, are controlled by ConRail and not by third parties. In such circumstances, and based upon ConRail's representations during rulemaking, we would expect it to accede to an equitable division of such revenues. In the event of impasse, the Office would be available to mediate the dispute.

By the Commission, Rail Services Planning Office.

H. G. Homme, Jr., Acting Secretary.

[PR Doc. 77-35677 Filed 12-12-77; 8:45 am]
izes the Chicago and North Western Transportation Co. to operate over tracks of the MILW in DeKalb in order to restore railroad service to these shippers.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: The Order is printed in full below:

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 9th day of December, 1977.

The line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (MILW) serving between Kirkland, Ill., and De Kalb, Ill., has become inoperable because of track connections resulting in derailments of trains attempting to traverse this line. Numerous shippers located adjacent to the tracks of the MILW have been deprived of essential railroad service because of the inability of the MILW to operate its trains to and from De Kalb. The Chicago and North Western Transportation Co. (CNW) has agreed to operate over the tracks of the MILW in De Kalb in order to restore essential railroad service to these shippers. The MILW has consented to such use of its tracks by the CNW.

It is the opinion of the Commission that an emergency exists requiring operation of CNW trains over these tracks of the MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for the order effective upon the above date.

It is ordered, That Service Order No. 1286 is added to read as follows:

§ 1033.1286 Service Order No. 1279.
(a) The Chicago and North Western Transportation Co. (CNW) is authorized to operate over tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (MILW) at De Kalb, Ill., for the purpose of serving industries located adjacent to such tracks.
(b) Application. The provisions of this order shall apply to intrastate, interstate, and foreign traffic.
(c) Rates applicable. Inasmuch as this operation by the CNW over tracks of the MILW is deemed to be due to carrieability, the rates applicable to traffic moved by the CNW over the tracks of the MILW shall be the rates which were applicable on the shipments at the time of shipments as originally routed.
(d) Effective date. This order shall become effective at 12:01 p.m., December 9, 1977.
(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., May 31, 1978, unless otherwise modified.

RULES AND REGULATIONS

Transportation Co. to operate over tracks of the MILW in DeKalb in order to restore railroad service to these shippers.

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RULES AND REGULATIONS

9th day of December, 1977.

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SUPPLEMENTARY INFORMATION: because of track connections resulting

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MILW in order to restore essential railroad service to these shippers.
Interested persons were given until December 27, 1976, to submit written comments or inquiries. Comments and inquiries were received from several recipient organizations and a few Federal program agencies.

Comments and inquiries submitted by recipient organizations centered on the possibility of an increased time lag between request for and receipt of funds and additional paperwork and related workload under the Letter of Credit—Treasury RDO System. If a recipient organization experiences an increase in time lag, it should compensate by projecting cash disbursement requirements and allowing an adequate lead time when requesting Federal funds. Regarding additional paperwork, the form utilized for requesting funds under the Letter of Credit—FRB System does require the insertion of more information than the form used under the Letter of Credit—FRB System. However, this information should be available within the recipient organization's system if this system meets the requirements of existing Federal regulations related to advance financing. This data provides the Federal program agency with a tool for effective monitoring of advances and the Department of the Treasury with a tool for fulfilling its oversight responsibilities in this area.

Comments submitted by Federal program agencies included a recommendation that Treasury further define the term "immediate disbursement needs." Treasury's broad interpretation of this term is that Federal funds are to be disbursed by recipient organizations as close as is administratively feasible to receipt of the funds. To define "immediate disbursement needs" in terms of a certain number of days could result in the recipient organizations using systems which are not compatible with Treasury's interpretation.

It was also recommended that Treasury establish criteria requiring the refunding of excessive balances of Federal funds. Currently, these criteria are included in the related procedural instructions contained in Volume I of the Treasury Fiscal Requirements Manual. Another suggestion was that funding recipient organizations in amounts of advances of $120,000 to $250,000 under the letter-of-credit method should be optional. Under the provisions of Treasury regulations, a waiver to this criterion will be granted where a Federal program agency can support its claim that the letter-of-credit method is not appropriate for funding certain recipient organizations.

After due consideration, it was determined that no changes in the proposed revision were necessary based on the comments and inquiries received. However, further internal review resulted in the following minor changes:

A. The last sentence of § 205.3(k) is reworded to improve clarity.
B. The last sentence of § 205.4(a) is reworded to prevent misinterpretation.
C. The reference to Federal Management Circular 74-7 in section 205.6 is changed to: "OMB Circular A-102 revised."
D. The reference to the inflation impact of these regulations is modified in view of Executive Order 11949.

The primary author of the revised regulations is Mr. D. H. McGrath, Jr., Director, Special Financing Staff. Accordingly, 31 CFR 205 is amended and revised as follows:

§ 205.1 Purpose.

This part prescribes the regulations governing advances to recipient organizations for financing operations under Federal grant and other programs.

§ 205.2 Scope of regulations.

(a) The regulations in this part apply to any Federal program requiring advances to finance the recipient organization's activities in carrying out the program, whether by contract, grant, contribution, or other form of agreement.

(b) These regulations are not intended to apply to Government disbursements made to reimburse an organization for work already performed and financed with the organization's own working capital. However, these regulations do apply to reimbursable grant programs involving nonprofit organizations participating in the single letter-of-credit funding technique. Any other specific application of features of these regulations to reimbursement payments will be consid-
RULES AND REGULATIONS

§ 205.3 Definitions.

(a) Cash advances to a recipient organization have the same meaning as in the
(b) Direct Treasury check means the method whereby payment is made di­
(c) Letter of Credit—Federal Reserve Bank System means the system whereby letters of credit are maintained and charged or requested by the
(d) Letter of Credit—Treasury Regional Disbursing Office System means the system whereby the letters of credit are maintained and charged or requested by Treasury disbursing centers and Treasury regional disbursing offices.
(e) Letter of Credit—Treasury Redical Disbursing Office System means the system whereby the letters of credit are maintained and charged or requested by Treasury disbursing centers and Treasury regional disbursing offices.
(f) Checks paid technique means the procedure whereby the drawdown on the letter of credit is delayed until the checks issued for program disbursements are presented to the recipient organization's bank for payment.
(g) Delay of drawdown technique means the procedure whereby the drawdown on the letter of credit is delayed until after the checks issued for program disbursements have been forwarded to the payees.
(h) Consolidation of funding to the same recipient organization under one letter of credit means the procedure whereby a single letter of credit may be established and charged or requested by the Federal program agency to cover all the disbursement needs of one recipient organization.
(i) Single letter-of-credit technique means the procedure whereby numerous letters of credit issued by different agencies to one recipient organization may be combined into a single letter of credit.

§ 205.4 General regulations.

(a) Cash advances to a recipient organization under a Federal program shall include all advance funding to the recipient organization under one letter of credit, as needed to fulfill the criteria established for the letter-of-credit method.
(b) Single letter-of-credit technique means the procedure whereby numerous letters of credit issued by different agencies to one recipient organization may be combined into a single letter of credit.
(c) Working capital advance basis means the procedure whereby funds are advanced to the recipient organization to cover its estimated disbursement needs for a given period.

§ 205.5 Irrevocability of the letter of credit.

(a) Cash advances shall be made only when actually needed for its disbursements, and the timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for the purpose of the approved program or project. The timing and amount of cash advances shall be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project.

§ 205.6 Contract or grant provisions.

(a) Contract or grant provisions shall include procedures that will minimize the time elapsed between cash advances and the disbursement thereof, the Federal program agency, unless prohibited by the statutes governing the program(s) in question, shall terminate advance financing and shall require the recipient organization to finance its operations with its own working capital, and payments to the recipient organization shall be made by direct Treasury check method to reimburse it for actual cash disbursements. In those cases in which the reimbursement method is not feasible, arrangements may be made whereby the operations of the recipient organization are financed on a working capital advance basis.

§ 205.7 Responsibilities of Federal program agencies.

Regardless of the particular method used to advance funds, the Federal program agency shall be responsible for (a) making such reviews of the financial status of the recipient organization as are necessary to ensure that such organizations are finances on a working capital advance basis.
practices of recipient organizations, both primary and secondary, as are necessary to ensure that the provisions of this part are being complied with, and (b) instituting such remedial measures as may be necessary in the event that a recipient organization demonstrates its unwillingness or inability to comply with these provisions. Federal program agencies shall formulate procedural instructions which specify the methods employed to carry out these responsibilities and shall forward copies of such instructions to the Commissioner, Bureau of Government Financial Operations, or his designee. 

§ 205.9 Implementing instructions.


§ 205.10 Waivers.

Any waivers of the provisions of this part previously granted to Federal program agencies are hereby revoked. Requests for waivers of specific provisions of this part shall be presented in writing to the Commissioner, Bureau of Government Financial Operations, or his designee.

Note.—The Department of the Treasury has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Effective date: These regulations are effective December 14, 1977.


PAUL H. TAYLOR,
Acting Fiscal Assistant Secretary.
ALL-CARGO AIR TAXIS
Increased Aircraft Size

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice invites comment from the public on proposed rules to increase the authorized size of aircraft for all-cargo air taxi operations from 7,500 pounds maximum payload capacity to 18,000 pounds. This change is proposed to increase the efficiency of the all-cargo air taxis, and to improve cargo services to those small communities not served by the larger certificated direct services to those small communities not served by the larger certificated direct air carriers. The notice is in response to a petition by nine registered all-cargo commuter carriers.

Requests to be placed on the Service List by: December 27, 1977.

ADDRESSES: Comments should be sent to Docket 31397, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
Under Part 298 of the Board’s Economic Regulations (14 CFR Part 298), air taxi operators are permitted to operate aircraft no larger than those having a maximum payload capacity of 7,500 pounds, and a maximum passenger capacity of 30 seats. (By ER-1031, issued simultaneously we are eliminating the exception for air taxi operations within the state of Hawaii, which had been limited to aircraft of 12,500 pounds maximum certified takeoff weight.)

On September 15, 1977, a joint petition for rulemaking was filed by Certain All-Cargo Commute: Air Carriers, requesting that the air taxi aircraft weight limitation be increased to 18,000 pounds maximum payload capacity, based on an aircraft with a maximum zero fuel weight of 55,000 pounds, for all-cargo operations in the continental United States. Answers and informal correspondence have been received from various parties, including chambers of commerce, certificated air carriers, air taxi operators, shippers, air freight, forwarders, and various public officials.

The petitioners and the answers in support presented several arguments urging that the Board propose the requested amendments. They argue that the present weight limitation forces the all-cargo air taxi operator to rely on the aging DC-3 aircraft, which is inefficient in terms of both energy consumption and mechanical readiness. Larger and more modern aircraft would decrease the number of flights needed to serve a particular community, and would increase the efficiency of energy consumption by the all-cargo operations, contend the petitioners. They further state that the demand for cargo feeder service to the certificated carriers from the smaller and more isolated communities has so increased since the present weight limit was adopted in 1972 as to outstrip the capacity available to the all-cargo commuter carriers. The petitioners and others argue that without the proposed increase in the weight limitation, the growth of both the all-cargo air taxis, and the small communities and shippers which they serve, will be stifled.

Two of the answers expressing support for the petition suggested modifications to the proposal. Although Airborne Airfreight Corporation, an authorized air freight forwarder, states that the proposal would provide relief to the air freight forwarding industry, it affects the provision of all-cargo service, contends the air cargo operators. These carriers also contended that there are insufficient facts in the petition to support the airfreight industry contention that such direct competition should no longer be regarded as a threat that must be prevented, particularly as it affects the provision of all-cargo service within the 48 contiguous States.

On November 9, 1977, the President signed into law Pub. L. 95–163, 91 Stat. 1278 (1977), amending the Federal Aviation Act of 1958. These amendments establish a new class of certificated all-cargo service air carriers, and remove any restrictions on the points to be served and the rates which may be charged by these carriers operating in domestic markets. This is a clear expression of legislative support for our present view that expansion of Part 298 exemption authority, so as to increase the size of aircraft that may be used in providing relatively unregulated cargo service within the 48 contiguous states, as requested by the petitioners merits favorable consideration. Indeed, since the new
HEARING

The Board also believes that, at this time, there has been no showing that an evidentiary hearing is either legally required or desirable, since the petition appears to raise no issues which are peculiarly suited to resolution only through oral testimony and cross-examination. The Board is not required to use such a full-scale hearing, even when it significantly expands the operating authority of exempt carriers, as long as there is an adequate basis to make the requisite findings under section 416 of the Act.\(^5\) The parties will have an opportunity to present their positions fully, including the submission of relevant economic data, through written comments. After consideration of the written materials submitted in the initial and reply comments, the Board will be better able to determine whether any type of hearing may be needed.

The text of the rules proposed in this notice is as requested by the petitioners,\(^*\) but may be modified in response to comments on this matter.

PROPOSED RULES

The Board proposes to amend Part 298 of its Economic Regulations (14 CFR Part 298) as follows:

§ 298.2 [Amended]

1. Paragraph (1) of § 298.2 would be revised to read as follows:

(1) "Large aircraft" means:

Any aircraft used in passenger service having a maximum seating capacity of more than 30, or a maximum payload capacity of more than 7,500 pounds; Provided, however, That for the purposes of this part, large aircraft shall include all models of the Convair 240, 340 and 440; Martin 202 and 404; F-27 and FH-227; and Hawker Siddeley 748; and shall also include any other aircraft with a maximum zero fuel weight in excess of 35,000 pounds; except as provided in § 298.2(1) (2) below.

(2) Any aircraft used solely in all-cargo service having a maximum payload capacity of more than 18,000 pounds, except that in connection with operations within the states of Hawaii and Alaska, such aircraft shall have a maximum payload capacity of more than 7,500 pounds.

2. Paragraph (1) of § 298.2 would be amended by adding a second proviso at the end of the paragraph to read as follows:

(1) "Maximum payload capacity" means * * * ; Provided further, however, * * *

3. Section 298.31 would be revised to read as follows:

§ 298.31 Scope of service and equipment authorized.

Nothing in this part shall be construed as authorizing the operation of large aircraft in air transportation, and the exemption provided by this part to air taxi operators which register and register with the Board extends only to the direct operation in air transportation in accordance with the limitations and conditions of this part of aircraft having maximum passenger capacities and maximum payload capacities as defined in §§ 298.3(1) and 298.2(1) of Subpart A of this part, except that with respect to operations conducted within Hawaii and Alaska such exemption extends only to such operation of aircraft having a maximum payload capacity of 7,500 pounds or less.

REQUEST FOR COMMENTS

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subjects discussed. All relevant material received by the date shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Those persons planning to participate who wish to be served with the comments of others, and who are willing to serve their own comments and reply comments on others, may on or before the date shown at the beginning of this notice, request the Docket Section to place them on the Service List. The Service List will be prepared by the Docket Section and mailed to those named on it. Persons filing responsive comments should serve any person whose comment is dealt with in their responsive comment, whether or not either party is on the Service List.

Individual members of the general public who wish to express their interest in any matter covered by this part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(See 204, 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 771 (49 U.S.C. 1324, 1326).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FED Doc 77-58636 Filed 12-18-77; 8:45 am]

FOOTNOTES

* On November 1, 1977, the Philadelphia Parties (City of Philadelphia and the Greater Philadelphia Chamber of Commerce) filed a Motion for Leave to Submit a Late-Filed Document with its Answer. For good cause shown, the motion is granted. Allegany Airlines requested that its answer also be accepted late. This request is granted.

PROPOSED RULES

62932

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR—101—77]

INCOME TAX

New Jobs Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the new jobs credit. The proposed regulations, both on matters of substance and style, would provide the public with the guidance needed to comply with the law and would affect employers seeking to obtain the new jobs credit.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 30, 1978. The new regulations will be published in the Federal Register on or before February 1, 1978, and would apply to taxable years beginning after December 31, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) in order to conform the regulations to sections 52 and 280C of the Internal Revenue Code of 1954, relating to the new jobs credit, as added by the provisions of section 202 of the Act of 1977 (91 Stat. 141). The regulations are proposed to be effective for taxable years beginning after December 31, 1976, and would apply to credit carrybacks from such years.

The proposed amendments to 26 CFR Part 1 are as follows:

§1.52-1 Trades or businesses that are under common control.

(a) Apportionment of new jobs credit among members of a group of trades or businesses that are under common control.—(1) General rule. In the case of a group of trades or businesses that are under common control, the amount of the new jobs credit (computed under section 51 as if all the organizations that are under common control are one trade or business) must be apportioned among the members of the group on the basis of each member's proportionate contribution to the increase in unemployment insurance wages of the entire group. The limitations in section 53 apply to each organization individually.

(b) Parent-subsidy group under common control.

The term "parent-subsidy group under common control" means any group of trades or businesses that are under common control among which a "parent-subsidiary group under common control" is defined in paragraph (c) of this section. For purposes of the regulation, the term "parent-subsidy group under common control" means any group of trades or businesses that are under common control among which a "parent-subsidiary group under common control" is defined in paragraph (c) of this section.

(c) Parent-subsidiary group under common control. The term "parent-sub-
sidarian group under common control" means one or more chains of organiza-
tions conducting trades or businesses that are connected through ownership of a controlling interest with a common parent organization if:

1. a controlling interest in each of the organizations, except the common parent organization, is owned (directly and with the application of § 11.414(c)-4(b)(1), relating to options) by one or more of the other organizations; and

2. The common parent organization owns (directly and with the application of § 11.414(c)-4(b)(1), relating to options) a controlling-interest in at least one of the other organizations, excluding, in computing the controlling interest, any direct ownership interest by the other organizations.

(d) Brother-sister group under common control. The term "brother-sister group under common control" means two or more organizations conducting trades or businesses, in which a controlling interest in each organization is owned (directly and with the application of § 11.414(c)-4(b)(1), relating to options) by one or more individuals, estates, or trusts. The persons may be individuals, estates, or trusts. The ownership of each person is taken into account only to the extent the ownership is identical with respect to each organization or fewer persons. For an interest in a brother-sister group under common control, see Example (1) of § 1.1563-1(a)(3)(ii).

(f) Combined group under control. The term "combined group under common control" means a group of three or more organizations, in which (1) each organization is a member of either a parent-subsidiary group under common control or brother-sister group under common control, and (2) at least one organization is the common parent organization of a parent-subsidiary group under common control or brother-sister group under common control, and (3) at least one organization is the common parent organization of a parent-subsidiary group under common control or brother-sister group under common control.

(f) Controlling interest defined. (1) Controlling interest. For purposes of this section, the term "controlling interest" means:

(i) In the case of a corporation, ownership of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of the shares of all classes of stock of the corporation;

(ii) In the case of a trust, estate, ownership of an actuarial interest (determined under subparagraph (2) of this paragraph) of more than 50 percent of the trust or estate;

(iii) In the case of a partnership, ownership of more than 50 percent of the profit interest or capital interest of the partnership; and

(iv) In the case of a sole proprietorship, ownership of the sole proprietorship.

(b) Meanings of terms. (1) Acquisition. (i) For the purposes of this section, the term "acquisition" includes a lease agreement if the lease granted is to transfer the major portion of the trade or business or of a separate unit of the trade or business for the period of the lease. For instance, if one company leases a factory (including equipment) to an other company for a two-year period, the employees are retained by the second company, and the factory is used for the same general purposes as before, then for purposes of this section the lease has ac-

exercised of discretion by the fiduciary in favor of the beneficiary. The factors and method prescribed in § 20.3031-10 of this chapter (Estate Tax Regulations) for use in ascertaining the amount of an interest in property for estate tax purposes will be used to determine a beneficiary's actuarial interest.

(3) Exclusion of certain interests and stock in determining control. In deter-
mining control under this paragraph, the term "interest" and the term "stock" do not include an interest that is treated as not outstanding under § 11.414(c)-3. In addition, the term "stock" does not include treasury stock or nonvoting stock that is limited and preferred regarding dividends.

(q) Rules for determining ownership. In determining the ownership of an interest in an organization for purposes of this section, the constructive ownership rules of § 11.414(c)-4 shall apply.

§ 1.52-2 Adjustments for acquisitions and dispositions.

(a) General rule. If, after December 31, 1975, the predecessor employer so informs the acquiring employer, the predecessor shall be decreased by those amounts. Regardless of whether the predecessor employer informs the acquiring employer in writing of the amount of the unemployement insurance wages and the amount of total wages paid by the predecessor employer that are attributable to the acquired portion of the trade or business or the separate unit of the trade or business, the amount of such wages considered to have been paid during the periods preceding the acquisition, then the amounts of the unemployment insurance wages and total wages considered paid by the predecessor employer shall not be allowed a credit for the total wages attributable to the acquired portion of the trade or business, or the separate unit of the trade or business, have been paid during the periods preceding the acquisition, then the amounts of the unemployment insurance wages and total wages considered paid by the predecessor employer shall be decreased by those amounts. Regardless of whether the predecessor employer informs the acquiring employer of the amount of any increase in the unemployment insurance wages or the total wages in the calendar year of the acquisition attributable to the acquired portion of the trade or business or the separate unit of the trade or business, the amount of such wages considered to have been paid during the periods preceding the acquisition, then the amounts of the unemployment insurance wages and total wages considered paid by the predecessor employer shall be decreased by those amounts.

(b) Tax on adjusted total wages. The amount of the tax attributable to the adjusted total wages attributable to the acquired portion of the trade or business or the separate unit of the trade or business shall be decreased, respectively, by the amount of the unemployment insurance wages and the total wages attributable to the acquired portion of the trade or business or the separate unit of the trade or business. The amount of the tax attributable to the adjusted total wages attributable to the acquired portion of the trade or business or the separate unit of the trade or business shall be decreased, respectively, by the amount of the unemployment insurance wages and the total wages attributable to the acquired portion of the trade or business or the separate unit of the trade or business.

Example. The facts are the same as in Example (1), except that R Co. also sells its name and goodwill to S Co. and leases the physical equipment of its restaurant to S Co. This arrangement is a strong indication that S Co. has acquired a separate unit of R Co.'s business.

Example (2). The M Corp., which has been engaged in the sale and repair of boats, leases the repair shop building and all the property used in its boat repair business to N Co. for four years and gives the N Co. a covenant not to compete in the boat repair business for the period of the lease. The N Co. is con-

sidered to have acquired a separate unit of M Corp.'s business for the period of the lease. The N Co. has merely acquired the old R Co. assets; it has not acquired any portion of R Co.'s business.

Example (3). The R Co. processes meat. R Co. has acquired a separate unit of the P Co.'s business. There are eight divisions, each division is located in a different metropolitan area of the country and each division uses a different name. Although certain buying and merchandising functions are centralized, each division's day-to-day operations are independent of the other divisions. The M Corp., which has merely acquired assets in this transaction, all of the physical and intangible assets of one of the divisions, including the division's name. The Q Corp. allows the division to continue doing business in the same manner as it had been operating prior to the acquisition. The Q Corp. has acquired a separate unit of the P Co.'s business.
Example (4). The S Corporation is engaged in the manufacture and sale of steel and steel products. S Corporation also owns a coal mine, which is operated for the sole purpose of providing coal requirements for its steel manufacturing operations. The acquisition of the coal mine would be an acquisition of a separate unit of the S Corporation's business.

Example (5). The T Company, which is engaged in the operation of a drug store, sells its only downtown drug store to the V Company and agrees not to open another T Company store in the downtown area for five years. Included in the purchase price is an amount that is charged for the goodwill of the store location. The V Company is owned by A, B, and C, who are unrelated individuals. The X Company does not have a separate unit of the Y Corporation's business.

Example (6). The W Company, which is engaged in the business of operating a chain of drug stores, sells one of its stores to the X Company, but continues to operate another drug store three blocks away. The X Company does not have a separate unit of the W Company's business.

Example (7). (a) The Y Corporation, which is engaged in the manufacture of mattresses, sells one of its three factories to the Z Company, but retains its other two factories. The Z Company is engaged in the operation of a separate unit of its own. The Z Company has not acquired a separate unit of the Y Corporation's business.

(b) The facts are the same as (a) above, except that a profitable manufacturing operation can be conducted in the factory standing on its own. Z Company has not acquired a separate unit of the Y Corporation's business.

Example (8). The O Construction Company is owned by A, B, and C, who are unrelated individuals. It owns equipment valued at $5 million, and construction contracts valued at $6 million. A, wishing to start his own company, exchanges his interest in O Company for $2 million dollars of contracts and a sufficient amount of equipment to enable him to begin business immediately. A has acquired a separate unit of the O Corporation.

(3) Major portion. All the facts and circumstances surrounding the transaction shall be taken into account in determining what constitutes a major portion of a trade or business (or separate unit). Factored shall include:

(i) The fair market value of the assets in the portion relative to the fair market value of the other assets of the trade or business (or separate unit);

(ii) The proportion of goodwill attributable to the portion of the trade or business (or separate unit);

(iii) The proportion of the number of employees of the trade or business (or separate unit) attributable to the portion;

(iv) The proportion of the sales or gross receipts, net income, and budget of the trade or business (or separate unit) attributable to the portion.

§ 1.52–3 Limitations with respect to certain persons.

(a) Mutual savings institutions. In the case of an organization to which section 593 applies (that is, a mutual savings bank, a cooperative bank, or a domestic building and loan association), the amount of the credit allowable under section 44B shall be 50 percent of the amount otherwise determined under section 51, or, in the case of an organization under common control, under section 52 (a) or (b).

(b) Regulated investment companies and real estate investment trusts. In the case of a regulated investment company or a real estate investment trust subject to taxation under subchapter M, chapter 1 of the Code, the amount of the credit allowable under section 44B shall be reduced to the extent of the trust's ratable share of the credit. The ratable share shall be the ratio which the taxable income of the regulated investment company or real estate investment trust for the taxable year bears to its taxable income increased by the amount of the deduction for dividends paid taken into account under section 552 (b) (2) (D) in computing investment company taxable income or under section 857 (b) (2) (B) in computing real estate investment trust taxable income, as the case may be.

(c) Cooperatives. (1) In the case of a cooperative organization described in section 1358 (a), the amount of the credit allowable under section 44B shall be reduced to the cooperative's ratable share of the credit. The ratable share shall be the ratio which the taxable income of the cooperative for the taxable year bears to its taxable income increased by the amount of the deductions allowed under section 1362 (b) and (c).

Par. 2. A new section 1.280C–1 is added to read as follows:

§ 1.280C–1 Disallowance of certain deductions for compensation expenses.

If an employer is entitled to a credit under section 44B, it must reduce its deduction for wage or salary expenses paid or incurred in the year the credit is earned by the amount allowable as credit (determined without regard to the provisions of section 53). In the case in which wages and salaries are capitalized, the amount subject to depreciation must be reduced by an amount equal to the amount determined without regard to the provisions of section 53 in determining the depreciation deduction. If the employer is an organization that is under common control (as described in § 1.52–2 (1)), it must reduce its deduction for wage or salary expenses by the amount of the credit that is allowed under subsections (a) or (b) of section 52. The deduction for wage and salary expenses must be reduced in the year the new jobs credit is earned, even if the employer is unable to use the credit in that year because of the limitations imposed by section 53.

Jerome Kertz, Commissioner of Internal Revenue.

[FR Doc.77–35617 Filed 12–13–77; 8:45 am]

PROPOSED RULES

ACTION: Correction.

SUMMARY: This document contains a technical correction to the notice of proposed rulemaking relating to refinements of industrial development bonds, published at 42 FR 61613, December 6, 1977.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 6, 1977, the Federal Register published a notice of proposed rulemaking (42 FR 61613) relating to refinements of industrial development bonds.

NEED FOR CORRECTION

The effective dates contained in the preamble to the proposed regulations as published (42 FR 61613) do not conform to the effective dates contained in the proposed regulations.

CORRECTION OF NOTICE OF PROPOSED RULEMAKING

Accordingly, FR Doc. 77–34876 (42 FR 61613) is amended as follows:

In the “DATES” paragraph of the preamble to “December 1, 1977” is changed to “December 15, 1977”.


David E. Dickinson, Acting Assistant Director, Legislation and Regulations Division.

[FR Doc.77–35616 Filed 12–13–77; 8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary
[ 32 CFR Part 70 ]

DISCHARGE REVIEW BOARDS (DRBs)

Procedures and Standards

AGENCY: Office of the Secretary of Defense.


SUMMARY: The proposed directive establishes Department of Defense (DOD) uniform standards and procedures for discharge review to meet statutory requirements.

DATES: Comments must be received by January 13, 1978.


FOR FURTHER INFORMATION CONTACT:

Accordingly, it is proposed to publish
32 CFR Part 70 as follows:

PART 70—DISCHARGE REVIEW BOARDS
(DRBs) PROCEDURES AND STANDARDS

Sec. 70.1 Purpose.
70.2 Applicability and scope.
70.3 Definitions.
70.4 Policy and responsibilities.
70.5 Discharge Review procedures.
70.6 Discharge review standards.
70.7 Secretary of the Army responsibilities.


§ 70.1 Purpose.
(a) This part establishes uniform policies, procedures and standards for the review of discharges or dismissals by the Secretary concerned as contemplated in the authority cited above.
(b) Nothing in this part changes or modifies in any way the portions of the separate regulations that implement the requirements of Stipulation of Dismissal, Civil Action No. 76–530, United States Court for the District of Columbia, Urban Law Institute of Antioch College, Inc., et al., Plaintiffs v. Secretary of Defense, et al., Defendants, January 31, 1977.

§ 70.2 Applicability and scope.
The policies and procedures prescribed herein are applicable to the Army, the Navy, the Air Force, and the Marine Corps in accordance with the Secretaries of Transportation, to the Coast Guard and to all Reserve components thereof in the conduct of discharge reviews.

§ 70.3 Definitions.
Definitions of terms used in this part are outlined below and are contained in 32 CFR Part 41.
(a) Discharge Review Board (DRB). An administrative board vested with discretionary authority and charged to review discharges and dismissals under the authority cited in Title 10, U.S.C. 1553. It may be configured as one main or regional board or more elements as designated by the Secretary concerned. (The term "Secretary" as used herein refers to the Secretary of the Military Departments and the Secretary of Transportation unless otherwise specified.)
(b) DRB Panel. An element of a DRB, when authorized by the Secretary concerned, consisting of five members for the purpose of reviewing discharges and dismissals.
(c) Applicant/Petitioner. A former service member of the Armed Forces who, in accordance with statutory and regulatory provisions, requests that a case be heard by the DRB constituted by the Secretary of the former service member, or a former member whose case is heard on the DRB's own motion, or at the request of the surviving spouse, next-of-kin, or legal representative.
(d) Counsel/Representative. An individual or agency designated by the applicant who agrees to represent him/her in a case before the DRB. It includes, but is not limited to: A lawyer who is a member of the Bar of a Federal Court or of the highest court of a state; an accredited representative designated by the Administrator of Veterans Affairs; a representative from a state agency concerned with veterans affairs; and representatives from private organizations or local government agencies. Active duty military officers in their official capacities shall not act as such counsel/representative.
(e) President, DRB. The president is designated by the Secretary and shall be responsible for the supervision of the discharge review function, as well as performing other duties as assigned.
(f) DRB Hearing Examiner. If deemed appropriate by the Secretary, an officer of a DRB appointed to conduct a video tape or otherwise recorded presentation for consideration by a DRB.
(g) DRB Traveling/Regional Panel. A DRB that conducts discharge reviews in a location outside the Washington, D.C. area.
(h) Discharge Review. The phrase "Discharge Review" as used in this part is commonly used DRB terminology encompassing the process by which both the characterization of service and reason for separation are evaluated.

§ 70.4 Policy and responsibilities.
(a) Under the provisions of Title 10, U.S.C. 1553, the Secretaries of the Military Departments and the Secretary of Transportation for the United States Coast Guard have the authority for final decision and the responsibility for the operation of their respective discharge review programs. The guidance contained in this part is designed to ensure uniformity in execution of this function as required by the provisions of Pub. L. 95–126.
(b) The Assistant Secretary of Defense (Manpower, Reserve Affairs and DRB) is designated the authority to resolve all issues concerning DRBs which cannot be resolved among the Military Departments and to modify or supplement any of the enclosures to this part in a manner consistent with the policies set forth herein.
(c) The Secretary of the Army is designated the administrative focal point for DRB matters. Section 70.7 outlines specific responsibilities.

§ 70.5 Discharge Review Procedures.
(a) Application for Review. (1) Former service members may be discharged or dismissed in accordance with the provisions of administrative directives of the Military Departments/U.S. Coast Guard or by sentence of a special court-martial under Title 10, U.S.C. 901 et seq (Uniform Code of Military Justice) may submit a written request for review to the DRB of the Military Department concerned with such other statements, affidavits, or documentation as desired. The request for review will be made on DD Form 293, Application for Review of Discharge or Separation from the Armed Forces of the United States, by the former service member, surviving spouse, next-of-kin, or legal representative; on the motion of the DRB concerned; or, upon request of the Veterans Administration, under Title 38, U.S.C. 101, 3103, as amended by Pub. L. 95–126, October 8, 1977.
(2) Special written notification will be made to each applicant whose record indicates reason for discharge that bars receipt of benefits under Section 3103a of Title 38 U.S.C. This notification will advise the applicant that separate action by the Board for Correction of Military/Naval Records and/or the Veterans Administration (in case of 180 days consecutive unauthorized absence disqualification) may confer eligibility for VA benefits. As regards the 180 days consecutive unauthorized absence:
(i) Such absence must have been included as part of the basis for the applicant's discharge under other than honorable conditions.
(ii) Such absence is computed with regard to the applicant's normal or adjusted expiration of term of service.
(b) Conduct of Reviews—(1) Members. As designated by the Secretary, the DRB (and, when applicable, panels of the DRB) will consist of five members. One member will be designated as President. He shall serve as a presiding officer and may designate other officers to serve as presiding officers for DRB panels.
(2) Locations. Reviews by a DRB will be conducted in Washington, D.C. and such other locations as designated by the Secretary concerned.
(c) Modes of Appearance. An applicant, upon request, is entitled to appear before a DRB in person with or without counsel/representative or to have counsel/representative present his/her case in the absence of the applicant. Unless personal appearance or representation is requested, the consideration of an application before a DRB will be based on available records and supporting documents submitted by the applicant.
(d) Applicant's Expenses. Unless otherwise specified by law or regulation, expenses incurred by the applicant, witnesses, or counsel or representative will not be paid by the Department of Defense.
(5) Withdrawal of Petition. A petitioner shall be permitted to withdraw a petition without prejudice at any time before the scheduled review.
(6) Limitation—Failure to Appear for Hearing. Except as authorized or directed by the Secretary, further opportunity for personal appearance shall not be accorded a petitioner who requests a hearing and who, after being duly notified of the time and place of the hearing, fails to appear at the appointed time, either in person or by representative, not having made a prior, timely request for a continuance or withdrawal of the petition. Such individuals shall be deemed
to have waived their right to a personal appearance. Instead, the Board shall conduct a documentary review of the discharge and the decision of the Board shall be based on that review.

(7) Limitation—Continuances and Postponements. (i) A continuance of a discharge review hearing may be authorized by the convening officer or presiding officer of the panel concerned, providing such continuance is of reasonable duration and is essential to achieving a full and fair hearing. Where a continuance is not granted, the pending petition shall be returned to the petitioner with the option to resubmit when the case is fully ready for review.

(ii) Postponements of scheduled reviews shall not normally be permitted other than for demonstrated good and sufficient reason set forth by the petitioner in a timely manner, or for the convenience of the government.

(8) Limitation—Reconsideration. (i) Reconsideration of an individual discharge shall not be undertaken except:

(A) On the basis of presentation of new, substantial, relevant information not available to the petitioner at the time of the original review, or

(B) Where the only previous consideration of the case was on the motion of the Board, or

(C) When the original review did not involve a personal hearing and a personal hearing is now desired, and the provisions of paragraph (b)(6) of this section do not apply, or

(D) Where changes in policy are announced subsequent to an earlier review of an individual's discharge or dismissal, and the new policy is made expressly retroactive; or

(E) Where changes in policy, though not made expressly retroactive, resulted from a recognition that past practices may have been prejudicial.

(ii) Decisions as to whether information offered by a petitioner in substantiation of a request for a reconsideration is in fact new, substantial, relevant, and not available to the petitioner at the time of the original review shall be made under procedures established by the Secretary. In the event of a negative decision, the petitioner shall be notified of the non-acceptance of the petition and the reasons therefor.

Note.—Where there has previously been some form of personal appearance, the submission of additional contentions and/or elaborations of arguments or citations is not in itself new, substantial, relevant evidence and will not support granting a new review.

(9) Availability of records. (1) At the time of the review, applicant and/or counsel/representative may have access to the records considered by the DRB in the review. When necessary to acquaint the applicant with the substance of a document classified by intelligence agencies, the appropriate intelligence representatives of a DRB, will prepare a summary of or extract from the document, deleting all references to sources of information and other matter

the disclosure of which, in his opinion, would be detrimental to the national security interests of the United States. Should preparation of such summary be determined to be identifying classification authority, information from the classified source shall not be considered by the DRB.

(ii) Prior to a review, applicants or other designated representatives may obtain copies of military records by submitting a Standard Form 180 (Request Pertaining to Military Records) to National Personnel Records Center, 9700 Page Boulevard, St. Louis, Mo. 63132. The request must be submitted prior to the time the DD Form 285 is submitted, since once the DD Form 285 is submitted, the records will be requested from the National Personnel Records Center by the DRB.

(iii) In the event that the official records relevant to the discharge review are not available at the agency having custody of the records, the following actions will be taken prior to consideration of the request for discharge review:

(A) The petitioner shall be notified of the situation and requested to provide such information as may be desired in support of the request for discharge review:

(B) After receipt of a response from the petitioner or the expiration of a reasonable period of time for such a response, the review shall be conducted with information available to the DRB.

(C) If the information/documents furnished by the petitioner are not sufficient to provide a basis for the determination that a change in the type or nature of the discharge is warranted, the discharge shall be deemed to be proper under the legal principle that there is a presumption of regularity in the conduct of government affairs. The application of this presumption is not restricted solely to those reviews in which the entire official record is missing, but rather can be applied in any review in which there are missing documents and the evidence of record does not establish sufficient grounds to overcome this presumption.

(D) A DRB may take steps to obtain additional documentary material to the discharge review under consideration beyond that found in the official military record or submitted by the applicant. Such additional evidence may be sought when a review of the application suggests certain aspects of the review would be incomplete without the additional information or when the applicant presents testimony or documents which require additional background to be applied properly. Such information will be made available to the applicant with appropriate modifications with regard to classified material, if requested.

(10) Contentions. (1) Applicants must state clearly and specifically their contentions, and/or the issues of fact, law, or discretion for a written determination to be made in accordance with paragraph (c)(6)(i) of this section. Applicants may be provided a form for this purpose which must be completed or amended prior to the DRB's hearing on their case decision.

(ii) In addition, the DRB shall consider such issues of fact, law, or discretion for a written determination by the DRB in the review process.

(iii) The DRB shall make findings and conclusions with respect to the contentions and issues as required by paragraph (c)(6)(i) of this section.

(11) Decisions. On the basis of its findings and conclusions, the DRB shall record its decision as to whether a discharge should remain unchanged or be changed. The nature of any change shall be specified clearly.

(12) Implementation of Review Decisions. A written notification shall be issued to implement the decision of the Board, or that of higher authority, in each discharge review case.

(c) Hearing Process. (1) Formal rules of evidence shall not be applied to DRB hearings. However, the president or presiding officer responsible for the conduct of a discharge review hearing shall ensure that reasonable bounds of relevancy and materiality are maintained in the taking of evidence and presentation of witnesses.

(2) Personal appearance hearings (including hearing examinations) shall be conducted with recognition of the rights of all individuals to privacy. Accordingly, personal appearance hearings shall be conducted with recognition of the rights of all individuals to privacy. Accordingly, personal appearance hearings shall be conducted with recognition of the rights of all individuals to privacy. Accordingly, personal appearance hearings shall be conducted with recognition of the rights of all individuals to privacy. Accordingly, personal appearance hearings shall be conducted with recognition of the rights of all individuals to privacy. Accordingly, personal appearance hearings shall be conducted with recognition of the rights of all individuals to privacy.

(3) The presiding officer of a DRB panel shall preside over the hearing and rule on matters of procedure. He shall convene, recess, and adjourn the DRB as he shall deem expedient for the purpose of conducting a hearing with the requisite sphere of dignity and decorum at all times.

(4) Personal hearings shall be conducted with the objective of eliciting all facts and information available to him. He shall be encouraged to contribute to this objective. Board members are responsible for eliciting all facts necessary for a full and fair hearing, whether or not the petitioner is accompanied by a representative.

(5) Each board member shall act under oath or affirmation requiring careful, objective consideration of all facts and information available to him.

(6) A secretary/recorder or assistant shall be designated to assist each DRB and DRB Panel in function in support of that DRB in accordance with the procedures of the service concerned.

(d) Admission of evidence and testimony. (1) Applicants undergoing personal appearance hearings shall be permitted to introduce witnesses, documents, sworn or unsworn statements or other information on their behalf.

(2) Applicants may also make oral or written arguments personally and/or through counsel/representative.
(3) Applicants and witnesses introduced by them may be questioned by the DRB regarding information or testimony submitted by them and matters of the official military record.

(4) All testimony shall be taken under oath unless the applicant specifically requests to make an unsworn statement.

(5) Discharge Review Boards shall consider all information presented to them by the petitioner. In addition, they shall consider available service and health records together with such other records as may be in the files of the Military Department concerned that relate to the issues before the Boards.

(e) Decision Process. (1) The DRB or the DRB panel, as appropriate, shall meet in plenary session to review discharges.

(2) If the applicant does not appear in person and his designated counsel/representative does not appear in his behalf, the DRB shall review the discharge on the basis of the available official records and documentary evidence submitted by or on behalf of the applicant.

(3) If the applicant appears in person or his designated counsel/representative appears before the DRB in his behalf, the DRB shall hear testimony on or in behalf of the applicant and shall consider the official records and other documentary evidence submitted by the applicant.

(4) DRB decisions shall be reached in normal vote as prescribed by the Secretary.

(5) Voting shall be conducted in closed session, a majority of the five members' votes constituting the DRB decision.

(6) Details of closed session deliberations of a DRB are privileged information. They shall not be divulged.

(7) Minority opinions may be submitted by any member in accordance with service procedures.

(f) Decisional Document. A decisional document shall be prepared for each review conducted by a DRB. At a minimum this document shall contain:

(1) The date, type and reason of the discharge or dismissal; and, if so concluded, the basis for any greater relief than that afforded applicant by the record of findings, conclusions, and reasons. These shall be incorporated by reference in the statement of findings, conclusions, and reasons, and appended to the decision.

(2) A statement of findings, conclusions, and reasons consisting of:

(i) Findings on all issues of fact, law, or discretion upon which the DRB's determination is based, including pertinent factors required by applicable service regulations when such factors are a basis for denial of any relief requested.

(ii) Findings and conclusions on all other issues of fact, law, or discretion raised by the applicant, including claims by the applicant that statutory, regulatory, and/or constitutional provisions were violated, and such other claims made by the applicant, which in the opinion of the DRB would warrant greater relief than that afforded applicant by the findings, conclusions, and reasons, if resolved in the applicant's favor.

(iii) Conclusions as to whether or not any change, correction, or modification should be made in the type or character of the discharge or dismissal certificate, and, or the reason and authority for the discharge or dismissal; and, if so concluded, the particular changes, corrections, or modifications that should be made.

(iv) A statement of the reasons for the findings and conclusions made in accordance with subdivisions (1) through (iii) of this subparagraph.

(v) A record of the DRB members' names and votes.

(8) The DRB decision and minority opinion, if any.

(9) If not included elsewhere, a listing of the contentions and issues considered by the DRB and their findings thereon.

(10) An authentication of the document by an appropriate official.

(g) Issuance of decisions following Discharge Review. The applicant and counsel/representative, if any, shall be provided with a copy of the review decision and of any further action in review. Final notification of decisions shall be issued to the petitioner with a copy to the representative, if any, and to the service personnel managers.

(1) Notification to applicants, with copies to representatives, shall normally be made by the U.S. Postal Service. Such notification shall consist of a notification of decision together with a copy of the record of proceedings executed in connection with the review.

(2) Notification to the service personnel manager shall be for the purpose of appropriate action and inclusion of review decision in official records. Such notification shall bear the personal signature of an appropriate official in certification of completeness and accuracy.

(3) Actions on review by superior authority or the Board, when occurring, shall be provided to the applicant and counsel in the manner as the notification of the review decision.

(h) Records of Board Proceedings. (1) When the proceedings in any review have been concluded, a record thereof will be prepared. Records may include written records, electromagnetic recordings, videotape recordings, or a combination thereof.

(2) At a minimum, the record will include the following:

(i) The application for review.

(ii) For personal appearances, a record of testimony in verbatim, summarized, or recorded form at the option of the DRB concerned.

(iii) Documentary evidence or copies thereof submitted by the Board other than the service record.

(iv) Briefs/arguments submitted by or on behalf of the applicant.

(v) Advisory opinions considered by the Board, if any.

(vi) The findings, conclusions, and reasons developed by the DRB.

(vii) Notification of the decision of the Board to the cognizant custodian of the applicant's records, expunged as necessary to comply with Privacy Act requirements or reference to the notification document.

(viii) Minority report, if any.

(ix) A copy of the decisional document.

(1) Final Disposition of the Board Proceedings in Discharge Review. The original record of proceedings and all appendices thereto shall be incorporated in the service record of the petitioner and the service record shall be returned to the custody of the National Personal Records Center, St. Louis, Mo., via the service personnel manager, if applicable. Other copies shall be filed and disposed of in accordance with separate service regulation.

(j) Petitioner examination of documents to be considered during Discharge Review. (1) The documents assembled for consideration by the Board in review of a discharge shall be made available upon request for examination by the petitioner or representative.

(2) Such examination shall be arranged sufficiently beforehand so as not to delay a scheduled hearing.

(3) The Board is not authorized to provide to the petitioner or representative copies of any documents that are under the cognizance of another government department, office, or activity. Application for such information must be made by the petitioner to the cognizant authority.
(k) Availability of Discharge Review Board Documents for Public Inspection and Copying. (1) Following the issuance of decisions in each case, the Board shall make available for public inspection and copying the statement of issues/contentions; findings, conclusions and reasons; Advisory opinions, if any; and record of Board members’ votes together with the decision and majority opinion, if one exists, associated with the case. If not otherwise listed in the statement of findings, conclusions, and reasons, a list of contentions and the issues of fact, law, or discretion presented by the petitioner will be made public with the decision.

(2) To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of applicant and other persons will be deleted from documents made available for public inspection and copying. Names, addresses, social security numbers, and military service numbers must be deleted. Written justifications, which are to be made available for public inspection, shall be made for all other deletions.

(3) Documents made available for public inspection and copying shall be indexed in the Reading Room. They shall be indexed in a usable and concise format so as to enable the public and those who represent applicants or other persons to be informed of those cases that may be similar in issue to a particular case with the circumstances under and/or reasons for which the Board and/or the Secretary have granted or denied relief.

(4) The reading file index shall include the case number, the date, character of, reason for, and authority for the discharge. It shall further include the decisions of the Board and reviewing authority, if any, and the issues addressed in the findings, conclusions and reasons.

(5) The Index shall be made available at sites selected for traveling boards hearing or hearing examinations for such periods as the Board is present and in operation. Applicants at such sites shall be so advised in their notices of a scheduled hearing.

(6) The Armed Forces Discharge Review/Correction Boards Reading Room shall publish indexes quarterly for all Boards. All Boards will be responsible for timely submission to the Reading Room of individual case information required for update of the indexes. These indexes shall be available for public inspection and distribution by sale at the Reading Room, which is in the Concourse of the Pentagon. Notices to applicants of scheduled hearings will contain this information.

(7) Correspondence relating to matters under the cognizance of the Reading Room shall be addressed to:


(1) Privacy Act Information. Information protected under the Privacy Act is involved in the discharge review function. The provisions of 32 CFR Part 26a will be observed throughout the processing of a request for review of discharge.

§ 70.6 Discharge Review Standards.

(a) Objective of Review. The primary objective of discharge review is to determine whether a discharge is proper and equitable, or whether it should be set aside in favor of the underlying factors which aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable service. No factors shall be considered in reaching a determination concerning relief. In each case DRBs are required to insure full, fair and impartial consideration of all applicable factors prior to reaching a decision.

(b) Review Standards: Propriety. A discharge shall be deemed to be proper if it cannot be demonstrated to or discerned by a DRB that:

(1) There exists an error of fact, law, procedure, or discretion as associated with the discharge; and that the rights of the former service member were substantially prejudiced thereby; or

(2) The discharge was inconsistent with standards of discipline at the time of issuance; or

(3) The discharge is inconsistent with changes in policy issued subsequent to the issuance of the discharge and made expressly retroactive to separations of the type and character of the discharge under consideration.

(c) Review Standards: Equity. A discharge shall be deemed to be equitable if it cannot be demonstrated to or discerned by a DRB that:

(1) The discharge was unfair or unreasonable with regard to the quality of overall service or to the stated reason for discharge, although at the time of issuance it may have been within the limits of discretion of the issuing authority; or

(2) The discharge fails to conform to existing policy and directives which, though not having been made expressly retroactive, are generally applicable on a service-wide basis to separations of the type and character of the discharge under consideration and existing policy or directives are a result of a recognition that past practices may have been prejudicial; or

(3) Where considered appropriate, the DRB may act to grant relief where consideration of all facts (not inconsistent with 32 CFR Part 26a) favor upgrading of the discharge, even though the discharge was determined to be equitable and proper.

(d) Factors Inclusive in Review Standards—(1) The impact of the factors listed in § 70.6 (2) through (4) which follow is subject to the discretionary determination of the DRB. The presence of a factor or factors must be established through evaluation of the applicant’s service record and other evidence presented to the DRB. A mere contention by an applicant that relief is warranted based on one or more of these factors does not establish a basis for action in itself.

(2) Quality of Service. In making an evaluation of the overall quality of service, the following are examples of factors, as applicable to the individual concerned, which may be considered:

(i) Convictions by court-martial.

(ii) Nonjudicial punishment record.

(iii) Convictions by civil authorities which were not a member of the service.

(iv) Manner of performance as indicated by the member’s commander or other authority.

(v) Record of periods of unauthorized absence.

(vi) Record of promotions and demotions.

(vii) Individual awards received for meritorious service.

(viii) Wounds received in action.

(ix) Combat service.

(x) Wartime service.

(xi) Length of service during the current service period.

(xii) Letters of commendation or reprimand.

(xiii) Level of responsibility at which the applicant served.

(xiv) Prior military service to the extent that it provided a basis or more thorough understanding of the duties and level of performance of a service member.

(xv) Other acts of merit that may not have resulted in a formal recognition through an award or commendation but are reflected in the service record.

(xvi) Correspondence relating to a discharge in lieu of court-martial.

Capacity to Serve. In evaluating the overall capability of an individual to perform effectively, the following are examples of factors which may be considered:

(i) Total capabilities. An evaluation of the total capabilities of the individual including such things as age, educational level, ability to adjust to the service as indicated by aptitude scores, whether the individual met normal military standards of acceptability for service and similar indicators of an individual’s ability to serve satisfactorily.

(ii) Family/Personal Problems. Problems of sufficient gravity that the applicant’s ability to serve satisfactorily may have been affected.

(iii) Arbitrary or Capricious Actions. Actions by individuals in authority which were not warranted by the applicant’s conduct while in service or by the conditions of service and which contributed to the decision to discharge or to the characterization of discharge.

(iv) Discrimination. The discrimination must be shown to have been actual and not merely perceived by the applicant.

(4) Other. The following are additional examples of factors which may be
considered if the facts of the particular case indicate they are applicable:

(i) Civilian appellate court decisions. In instances in which the applicant was discharged under Service regulations because of conviction by civilian courts and the conviction is overturned by a court of competent jurisdiction, the Discharge Review Board must consider whether this action invalidates the basic reason for the discharge and the accompanying characterization of the applicant's service. A pardon issued by civilian authorities based on the applicant's demonstrated conduct after his conviction does not establish such a basis.

(ii) Post-service conduct. If the Discharge Review Board establishes that the in-service misconduct was not major in scope and did not reflect the normal behavior pattern of the individual concerned, then outstanding post-service conduct may be given appropriate consideration in determining whether some form of relief is warranted.

§ 70.7 Secretary of the Army Responsibilities

(a) Effects necessary coordination with other governmental agencies regarding continuing applicability of this part and resolves administrative procedures relating thereto.

(b) Reviews suggested modifications to this part, resolves differences when practicable, recommends specific language changes and provides supporting rationale to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) for decision, and includes appropriate documentation to effect publication in the FEDERAL REGISTER.

(c) Maintains the DD Form 292, Application for Review of Discharge or Separation from the Armed Forces of the United States, and republishes as necessary with appropriate coordination of the other Military Departments, the Secretary of Defense, the Office of Management and Budget.

(d) Responds to all inquiries from private individuals, organizations or public officials with regard to Discharge Review Board (DRB) matters. In those instances where the specific Military Service concerned can be identified, this correspondence may be referred to the appropriate DRB concerned for response. An appropriate activity may be further designated to perform this task.

(e) Provides overall guidance and supervision to the Armed Forces Reading Room with staff augmentation, as required by the Departments of the Navy and Air Force.

Maurice W. Roche,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

December 12, 1977.

[FR Doc.77-35294 Filed 12-13-77; 8:45 am]

PROPOSED RULES

[ 6730—01 ]

FEDERAL MARITIME COMMISSION

[ 46 CFR Part 502 ]

[Docket No. 77-69]

RULES OF PRACTICE AND PROCEDURE; THE FILING OF COMMENTS AND PARTICIPATION OF HEARING COUNSEL IN RULEMAKING PROCEEDINGS

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule changes.

SUMMARY: The Federal Maritime Commission proposes to amend its rules of practice to provide for a single round of comments in rulemaking proceedings unless particular circumstances warrant the filing of replies to comments and to provide for the participation of the Bureau of Hearing Counsel. The amendments are necessary to promote efficiency and expedition in the conduct of rulemaking proceedings and include the following: (i) Single round of comments. (ii) Participation of Bureau of Hearing Counsel. The amendments will be to simplify the format of rulemaking proceedings so that a single round of comments submitted by interested persons outside the Commission unless there are particular circumstances in which such format would hinder the Commission's ability to formulate a just and reasonable rule.

DATES: Comments on or before January 13, 1978.

ADDRESSES: Comments to Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: The Commission has been striving to modernize its rules of practice and procedure in order to promote efficiency and expedition in the conduct of formal proceedings. In the area of rulemaking, the Commission believes that this objective can best be served by resolving for a single round of comments. The proposed rules unless the comments present or are likely to present factual disputes or the particular proceeding involves complex issues which would justify replies to the initial comments to be made available for discussion. The Commission believes that provision for a single round of comments except under the circumstances mentioned above, and to establish the above-described format in rulemaking proceedings．
ACTION: Revised Proposed Rule.

SUMMARY: The Energy Policy and Conservation Act of 1975 requires the Commission to incorporate energy considerations into its major regulatory actions. This rule defines "major regulatory actions" and lists those Commission actions which require preparation of energy impact statements. It provides guidelines for determining whether other actions undertaken by the Commission have the potential for major energy impact. Report requirements are imposed to assist the Commission in evaluating energy impacts.

DATE: Comments from the public are due on or before February 13, 1978.

ADDRESS: Send comments to: H. G. Homme, Jr., Acting Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: This proceeding was started under the authority of sections 17(3), 204(a)(6), 304(a), and 403(a) of the Interstate Commerce Act, 49 U.S.C. 17(3), 304(a)(6), 904(a), and 1003(a), and the Energy Policy and Conservation Act of 1975, 42 U.S.C. 6201 et seq (EPACA), and under sections 553 and 559 of the Administrative Procedure Act, 5 U.S.C. 553 and 559, to define what constitutes a major regulatory action for purposes of section 372(b) of EPACA.

By Notice of Proposed Rulemaking and Order served August 23, 1976, 41 FR 36041 (August 26, 1976), we proposed new rules and invited the public to present their views on the proposal by submitting written data, comments, or argument. In consideration of these comments, we have made substantial changes in the proposed rules. In view of the importance of the rules to the Commission decisionmaking process and energy conservation, the rules will be published in the Federal Register, and we invite all interested parties to file statements relating to the matters discussed herein.

Representations

We received 10 representations in response to our Notice. The views of the responding parties are presented below in general form. They will be discussed in greater detail in a later section of this report.

Federal Agencies. The most comprehensive statement received was submitted by the Federal Energy Administration (FEA). FEA takes issue with the proposed rules’ basic assumption—that the thresholds & the significance concept, as employed in the National Environmental Policy Act of 1969 (NEPA), should also be used in defining a major regulatory action under EPACA. FEA believes that incorporating energy considerations within NEPA requirements may not provide for adequate consideration of energy consumption issues. FEA suggests that the Commission define "major regulatory action" and specify those actions which require preparation of a Statement of Energy Impact (SEI). It also urges that the Commission develop a data base for meaningful measurement of energy impacts associated with cross-modal diversion of traffic and use of equipment below full capacity.

The Department of Health, Education, and Welfare, Office of Consumer Affairs (OCA) agrees with the definition of major regulatory action contained in rule 1106.3(e) but suggests that the factors used in determining significance should be changed to eliminate redundancies, clear up ambiguities, and provide for the consideration of decreases, as well as increases in energy consumption. The Department of the Interior also urges that rule 1106.4(a)(1) be changed to take into account decreases in energy consumption in defining significance.

State government agencies. The Pennsylvania Department of Transportation contends that the proposed rules would favor motor carriers over rail, thus promoting use of a less energy efficient mode of transportation. PennDOT urges the Commission to encourage greater use of rail passenger and freight service as well as trailer-on-flat-car service.

Carrier interests. The Association of American Railroads (AAR) asserts that despite advantages in combining EPACA and NEPA procedures, this may result in the unnecessary preparation of environmental impact statements (EIS) where only an EEI would otherwise be required. AAR also believes that it is unnecessary to require extensive consideration of the SEI in the agency review process since EPACA does not require it and that considerations of diversion and efficiency in rule 1106.4(a) should be limited to energy concerns.

The American Trucking Association, Inc., (ATA) agrees with the proposition that EPACA will not create substantial new responsibilities or require comprehensive new procedures. However, ATA suggests that those actions requiring preparation of an SEI be specified in the rules. It also cautions the Commission against use of the ton-mile approach in evaluating modal fuel efficiency and urges further investigation into using alternative methods to quantify changes in fuel consumption.

Others. The National Industrial Traffic League (NITL) urges the Commission to consider its policies relating to energy, which include greater productivity from the use of fuel and legislation giving eminently domain rights to coal slurry pipelines.

The Institute of Scrap Iron and Steel (ISIS), a trade association representing brokers and processors of iron and steel scrap, recommends that the Commission give careful consideration to the energy impacts of rail freight rate increases to the extent that they cause diversion of scrap iron shipments from rail to truck and discourage the movement of scrap.

The Georgia Pacific Corporation contends that the parallel with NEPA is not appropriate since EPACA's considerations are primarily economic rather than environmental. It suggests that the Commission should not subsidize economically inefficient modes of transportation based on energy consumption without considering other efficiencies, such as the labor.

Finally, Farmland Industries, Inc., an agricultural cooperative, suggests that the Commission recognize, in deciding all abandonment applications, that wholesale speculation of energy results in diversion of traffic to a much less energy efficient means of transportation.

Discussion and Conclusions

Perhaps the most important issues raised by comments on the proposed rules are the appropriateness of applying NEPA-like thresholds of significance in defining "major regulatory action" and incorporating the SEI into the environmental impact statement process. FEA in particular challenges this concept, contending that unlike NEPA, EPACA requires the agency to (1) take or condone adverse energy impacts, (2) assume an active role in promoting greater energy conservation and efficiency, FEA also asserts that, unlike NEPA, EPACA demands an a priori determination of major regulatory actions rather than a preliminary assessment of significance. In support of its position, FEA makes the point that it had added section 382(b) requirement in spite of the Commission's contention that this requirement was unnecessary because energy-related matters were already being considered under our NEPA procedures. These and other concerns will be discussed below.

Applicability of NEPA standards of significance. While it is true that the word "significant" does not appear in section 382(b) of EPACA, defining the term "major regulatory action" without reference to the magnitude of an action's impact on energy consumption and efficiency is simply not feasible. The Commission undertakes an enormous volume of regulatory actions every year—over 8,800 formal cases alone were disposed of in fiscal year 1976. It would not be productive to categorize an entire class of actions as requiring an SEI when only a small percentage of proceedings within the class present serious energy impacts. In those cases where the energy impacts are minimal, requiring an SEI would do little to further the purposes of EPACA.
and is likely to create an extremely difficult administrative burden. However, we do agree that EPACA requires an a priori identification of major regulatory actions to consider. The Commission's regulatory mandate is general in nature and thus flexible enough to meet changing needs. EPACA is just one manifestation of our concern over the need for permitting certain kinds of things. It is designed to ensure that Commission decisionmakers become cognizant of the fact that energy considerations are of importance. Thus, while energy efficiency and consumption are certainly relevant considerations in support of decisions, it is not necessary to establish a standard in identifying major regulatory actions. Nevertheless, experience has shown that these actions usually have the potential for substantial energy impacts.

At the same time, the Commission's regulatory mandate is designed to foster energy efficiency and conservation, and the public interest requires a complex balancing of divergent, often conflicting factors by the Commission.

The Commission will continue to assume an active role in seeking to reduce energy consumption and encourage greater energy efficiency in the transportation industry. Our past efforts in this area have been described in the Notice of Proposed Rulemaking and will not be repeated here. However, it is important to note that the task force within the Commission has been established to study the existing use of energy by the transportation industry and is expected to recommend changes in Commission policies designed to eliminate unnecessary fuel consumption and encourage greater fuel efficiency.

Identification of major regulatory actions. The regulations employ a dual standard in identifying major regulatory actions, taking into consideration either (a) the broad-based impact of a proceeding on the operations of the surface transportation industry, or (b) the probable energy impact of proceedings affecting the operations of one or a limited number of carriers. The following actions have been identified as major regulatory actions because they have the greatest potential for serious impacts on energy: construction of rail lines (except for connecting tracks); merger, control, or consolidation involving two or more class I railroads; commuter fare adjustments; passenger bus and train discontinuance; abandonment of rail lines; and water carrier certification. All of these actions have the potential for substantial traffic diversion from one mode of transportation to another while rail mergers have the additional potential for permitting carriers to act in a manner that would not otherwise be consistent with the public interest. It is clear that these actions may not be considered paramount in all cases in light of the Commission's obligation to protect the public interest. Consequently, we agree with FEA's assertion that EPACA requires an a priori determination of major regulatory actions for every application under these circumstances.

The particular factors considered will vary depending on the type of action involved. Relevant and important factors in defining what actions are in the public interest may be a great deal more efficiently. Rail line constructions, furthermore, may result in significant transportation access for the development of coal or other energy resources. Rail abandonments, on the other hand, may in certain cases remove such access.

Rulemaking and legislation affecting carrier operations energy consumption or adjustments have been included in § 1106.5(a) because of their broad impacts on various segments of the surface transportation industry. In addition, rulemaking proceedings may have a substantial effect on carrier efficiency while general rate adjustments have the potential for traffic diversion to one or more less efficient transportation modes.

The absence of a particular class of actions from § 1106.5(a) does not signify that those actions never have the potential for substantial energy impacts. Rather, experience has shown that these actions will not have material impacts on energy consumption and efficiency in the vast majority of cases. With respect to motor carrier operating rights applications, for example, a total of 5,311 permanent and 7,500 temporary authority applications were filed with the Commission during the first 8 months of fiscal year 1977. While some of these cases may raise serious energy consumption or efficiency issues, most do not. Where such issues do arise, an SEI will be prepared. Motor carrier operating authority is frequently sought to serve new facilities, meet traffic needs in excess of existing carrier capacity, or serve shippers who simply do not have viable alternative transportation service available. In many other cases, the amount of traffic diverted from existing carriers is minimal, and these actions have very little effect on their operational efficiencies. Requiring an SEI for every application under these circumstances would not be cost-effective.
curnces would serve no useful purpose.

As mentioned above, the final rules do provide a mechanism for identifying those individual cases within a class which have a significant potential for substantial energy impacts. Applicants will be expected to take a careful look at the energy implications of their proposals in complying with the reporting requirements of rule 1106.5. The SEI staff and parties will be given the opportunity to present their views on the potential severity of relevant energy impacts. It is recognized that these requirements may be an additional burden in some cases, particularly for small carriers with limited technical resources. However, this burden is outweighed by the public benefit in identifying and considering proposals which may be seriously deficient from an energy standpoint.

The timing of the reporting requirements varies, depending upon the type of proceeding and the evidentiary process employed. Applications for actions defined as major regulatory actions in rule 1106.5(a) will include energy impact information along with the environmental information now required by 49 CFR 10.112.

These actions will, in most cases, entail the preparation of an environmental study which, under NEPA and the Commission’s energy policy, must include analysis of energy impacts. Requiring energy impact information at the application or initial filing stage will assist the Commission’s Section of Energy Economics in assessing energy-related environmental impacts. The SEI, however, will still be the responsibility of the Commission, not the independent environmental staff, in these proceedings.

For those actions not included in rule 1106.5(a), the need for energy information with the initial application is not as great since the actions are generally not as substantial or are evolved environmental studies and the decision to prepare an SEI will not be made until after the case is assigned to the appropriate decisional unit. Accordingly, the information need not be required until applicant goes forward with its case.

Delegation of responsibility. In contrast with our current NEPA procedures, the Commission has determined not to delegate the responsibility for initial consideration of energy impacts to an independent, interdisciplinary staff. This is because we perceive the basic purposes of the two studies as generally different. While NEPA stresses the need to identify and assess the broad range of environmental impacts, specifically requiring a multi-disciplinary technical staff and consultation with expert agencies during the environmental impact statement process, EPACA is more of a promotional measure, stressing the need for greater integration of one discrete element—energy conservation—into agency programs, policies, and decisions. Although the in-house expertise developed by our Section of Energy and Environment staff will be available as needed, we believe that the purposes of EPACA can best be carried out by incorporating a discussion of energy considerations in Commission decisions rather than in separate documents. This will permit the statement to be prepared after the record has been fully developed and energy issues have been thoroughly addressed by the parties. A major drawback of the present NEPA separate document approach for an adjudicatory agency like the Commission is that environmental reports must be prepared before oral hearings in order to be considered as evidence under the Administrative Procedure Act. Such reports, therefore, may not take into account relevant information developed during the course of the hearing. By having the SEI prepared after development of an extensive record, there will be greater assurance that all relevant energy information has been adduced and subsequent potential problems of an energy impact. An additional advantage of making the SEI part of the decision is that the Commission will be able to assess the impacts of the final action. Under our current NEPA procedures, the staff analyzes the impact of a private proposal which may be quite different from the Commission action eventually taken.

Some of the comments received in response to the proposed rules expressed the concern that the importance of the SEI would be diminished if it were incorporated into another document. While this concern is not a part of studies prepared under NEPA, we do not believe that the same problem would result from including the SEI in the decisional document. While the SEI presented by the Commission will have to scrutinize carefully the record to make an independent filing on the scope of the energy impacts, by requiring energy findings to be part of the decisional document along with the traditional determinants of the public interest, reasonableness, or public convenience and necessity, we are striving to make it clear that energy considerations are entitled to be given considerable weight in the decisional process.

Consultation with the Section of Energy and Environment during the preparation of the SEI will be encouraged. This section has developed methodologies and energy data through its years of experience in analyzing energy issues under NEPA. Its role under EPACA will be to develop guidelines for analyzing energy impacts and to provide technical assistance to the Commission as appropriate.

Other issues. We have retained with minor changes the six factors which, in the proposed rule, led the Commission in determining whether an action constituted a major regulatory action. These criteria will now be applied to those actions which have not been identified as major regulatory actions under rule 1106.5(a). In order to avoid confusion with NEPA standards, the word "significant" has been deleted from the rule 1106.5(c) criteria. However, the requirement that the energy impacts be fairly extensive before an SEI will be prepared has not been changed.

While consideration was given to establishing threshold levels of impact in line with the general structure of this approach was rejected as being too inflexible. Changes in fuel consumption or energy efficiency are often not easily quantifiable and the validity of a particular threshold level may change depending on the existing energy supply. Thus, during a time of severe fuel shortage, threshold levels may be too high to describe adequately the seriousness of an action's energy impact. A percentage formula (e.g., whether an action would increase existing energy consumption by a certain percentage) was also rejected on the ground that it would probably result in raising the documentation of a disproportionate number of SEIs for relatively minor actions where existing energy use is quite low, while ignoring the increase in energy consumption may be fairly substantial but below the percentage threshold due to high levels of existing energy usage.

Both FEA and ATA pointed out the need for further development of data bases and methodologies to assess more accurately the energy impacts of Commission actions. While beyond the scope of these regulations, these suggestions have merit and will be pursued in the future. In addition, generic studies along the lines of the recent example study conducted by the Bureau of Economics will be conducted from time to time to gain greater insight into how the Commission's regulatory policies and programs affect energy consumption and energy efficiency.

In conclusion, it should be noted that the Commission will monitor the effect of these rules and modify or clarify them if necessary and experience so dictate. This is particularly true with respect to the classification of proceedings as major regulatory actions. It is expected that the rules will engender a heightened awareness of the energy implications of all Commission actions and it is possible that this awareness may lead to changes in our initial assumptions regarding energy impacts.

Findings

We find that adoption of the procedures set forth below would enable the Commission to reasonably analyze energy impacts in its decisions in accordance with the Congressional intent expressed by section 382(b) of the Energy Policy and Conservation Act of 1975. We further find that these rules are just and reasonable, and that the principles they contain should be adopted, subject to consideration of further comments in this proceeding.
An appropriate order will be entered. Title 49 CFR is proposed to be amended by adding a new Part 1106 as follows:

PART 1106—IMPLEMENTATION OF THE ENERGY POLICY AND CONSERVATION ACT OF 1975

§1106.1 Purpose and scope.

(a) The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq., hereinafter referred to as EPACA) directs and authorizes the Commission to undertake certain steps taken by the Federal and State governments to reduce demand for energy, increase domestic energy supplies, and conserve existing energy supplies through energy conservation and improvements in the energy efficiencies of motor vehicles and other consumer products. Efforts should also be made to increase the energy efficiency of all modes of surface transportation subject to Commission regulation.

(b) These regulations establish procedures under which the Commission discharges its duties under the Energy Policy and Conservation Act of 1975. They apply to all proceedings before the Commission.

§1106.2 Authority.

(a) Section 382 of EPACA requires the Commission to examine its policies and programs in order to institute measures to promote energy conservation by persons subjected to its regulation. Section 382(b) of the EPACA directs the Commission to include in any major regulatory action, where practicable and consistent with the exercise of its authority under other law, a statement of the probable impact of the major regulatory action on energy efficiency and energy conservation. The statute directs the Commission to define the term “major regulatory action” by rule.

(b) Sections 17(3), 204(a) (6), 304(a), and 403(a) of the Interstate Commerce Act authorize the Commission, consistent with the purpose of the Act, to establish rules and procedures which are necessary to the exercise of its functions.

§1106.3 Definitions.

(a) “Act” means the Interstate Commerce Act, as amended.

(b) “Application” includes a request by an applicant, complainant, or proponent for the granting of any right, privilege, authority, or relief under or from any provision of the Act, any regulation or requirement made pursuant to a power granted by the Act, or any other statute conferring jurisdiction upon the Commission.

(c) “Commission” means the Interstate Commerce Commission or decisional unit within the Interstate Commerce Commission.


(e) “Major regulatory action” is any action listed in §1106.5(b) below or any other activity undertaken, approved, or licensed by the Commission which has the potential for a major impact on the conservation of energy resources or upon energy efficiency or which may have a broad effect on the operations of the surface transportation industry.

(f) “Statement of Energy Impact” (SEI) is a statement included in Commission decisions which describes the probable impact of a major regulatory action on energy conservation or energy efficiency.

§1106.4 Policy.

(a) It is the policy of the Commission to implement EPACA to the fullest extent possible consistent with its existing statutory authority. The goals of furthering energy conservation and energy efficiency are integral parts of the Commission’s overall regulatory mandate. Energy considerations are weighed with other relevant considerations in determining whether a proposal is consistent with the public interest or required by the public convenience and necessity.

(b) Energy findings and conclusions are integrated into decisions, opinions, or orders in proceedings involving a major regulatory action as defined in this part. The Commission interprets the provisions of EPACA as supplemental to its existing authority and as a mandate to view traditional policies and missions in the light of national energy objectives and, if necessary, to change these policies to promote greater energy conservation and efficiency among the carriers subject to Commission jurisdiction.

(c) These procedures apply only to proceedings instituted after the effective date of these regulations.

§1106.5 Identification of major regulatory actions.

(a) The following classes of actions are major regulatory actions and require preparation of an SEI:

(1) Construction of rail lines (except for computer traffic systems or switching facilities);

(2) Merger, control, or consolidations involving two or more class I railroads;

(3) Commuter fare adjustments filed under 49 CFR 1108.1;

(4) Intercity bus fare adjustments filed under 49 CFR 1104.20;

(5) Passenger train discontinuance;

(6) Revocation or substantial modification of motor carrier regular-route passenger service;

(7) Abandonment of rail lines;

(8) Certification of water carrier service;

(9) Rulemaking and legislative proposals affecting carrier operations; and

(10) General rate adjustments filed under 49 CFR 1102.1 and 1104.1.

(b) While other Commission proceedings may have some energy impact, these impacts are generally not considered to be major.

(c) When a proceeding involves energy regulation, the Commission will prepare an SEI.

(1) Substantially increase or decrease energy consumption in comparison with existing energy consumption in the affected area;

(2) Result in substantial diversion of traffic from one mode of transportation to another;

(3) Result in materially more efficient or less efficient use of existing modes of transportation;

(4) Be consistent with Federal, state, and local plans regarding energy conservation;

(5) Result in material disruption of existing patterns of energy distribution; or

(6) Provide or remove necessary transportation access for the substantial development of energy resources.

§1106.6 Preparation of statements of energy impact.

(a) The Commission will prepare the statement of energy impact for all major regulatory actions and include it in the initial decision.

(b) If a proceeding is not investigated by the Commission, a statement of energy impact will not be prepared.

(c) A determination that a proceeding is a major regulatory action within the meaning of EPACA and this part is independent from any determination that the proceeding is a “major Federal action significantly affecting the quality of the human environment” within the meaning of the National Environmental Policy Act of 1969, and vice versa.

§1106.7 Reporting requirements.

(a) Every application within §1106.5(a) shall include information specifically addressing the six factors listed in §1106.5(b) and shall provide supporting data to the extent practicable.

(b) For other proceedings before the Commission, the information required in paragraph (a) of this section shall be provided as follows:

(1) In proceedings involving oral hearings, at such hearings, at the control of the presiding officer; and

(2) In proceedings not involving oral hearings, at the time verified statements or other materials in justification of an application are filed.
(c) These reporting requirements shall not apply to applications for temporary or emergency temporary authority or to other emergency situations where compliance would be impracticable.

(d) Persons filing a protest or other pleading in a proceeding before the Commission may include a statement indicating the probable impact of the proposed action on energy conservation and energy efficiency. A statement alleging that a proposal is a major regulatory action under EPACA and this Part shall be accompanied by supporting data, to the extent practicable, indicating the nature and degree of the anticipated energy impact.

§ 1106.3 Initial and final decisions.

In addition to the statement of energy impact the initial decision in a major regulatory action will include findings and conclusions indicating how the energy impacts identified in the SEI were considered in the decision.

H. G. Homme, Jr.
Acting Secretary.

[FR Doc. 77-35005 Filed 12-13-77; 8:45 am]
DEPARTMENT OF AGRICULTURE
Forest Service
NATIONAL ENVIRONMENTAL POLICY ACT
PROCESS

Extension of Comment Period

Notice is here given that the time period has been extended for receipt of comments on the proposed revision of Forest Service guidelines for implementation of the National Environmental Policy Act (NEPA) Pub. L. 91-190 (published in the Federal Register, Vol. 42, No. 229, Tuesday, November 29, 1977).

The due date for receipt of comments, December 29, 1977, is extended to January 16, 1978.

EINAR L. ROGET,
Associate Deputy Chief.

DECEMBER 8, 1977.

[FR Doc. 77-35620 Filed 12-13-77; 8:45 am]

WESTERN SPRUCE BUDWORM PROJECT

Availability of Draft 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 draft environmental statement for Western Spruce Budworm Project, Boise and Payette National Forests, Idaho. The Forest Service report number is USDA-FS-DES (Adm.) R4-70-2.

The environmental statement presents an evaluation of the intensive entomological investigations on the western spruce budworm over the past two years. Five alternatives are presented for management of timber resources on 3,017,660 acres infested with or that have a probability of becoming infested with the western spruce budworm in south-central Idaho.

This draft environmental statement was transmitted to EPA on December 6, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

Regional Planning and Budget Office, USDA, Forest Service, Federal Building, Room 4120, 324-55th Street, Ogden, Utah 84401.

Forest Supervisor, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.

Forest Supervisor, Payette National Forest, P.O. Box 1026, McCall, Idaho 83638.

A limited number of single copies are available upon request to Forest Supervisor, Edward C. Maw, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706; or William H. Sendt, Payette National Forest, P.O. Box 1026, McCall, Idaho 83638.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Edward C. Maw, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.

Comments must be received by February 6, 1978, in order to be considered in the preparation of the final environmental statement.


VERN HAMRE,
Regional Forester.

[FR Doc. 77-35604 Filed 12-13-77; 8:45 am]

CIVIL AERONAUTICS BOARD

Order on Reconsideration regarding Cincinnati-Cleveland Nonstop Route Proceeding

Adopted by the civil Aeronautics Board at its office in Washington, D.C., on the 8th day of December 1977.

Wright Air Lines, Inc., has filed a petition for reconsideration of Order 77-10-111. In that order, we denied Wright's request that the Board issue an order to show cause why its application for nonstop authority between Cincinnati and Cleveland should not be granted. Allegheny Airlines, Inc., American Airlines, Inc., and Delta Air Lines, Inc., have filed answers in opposition to Wright's petition for reconsideration. We conclude that Wright's petition must be denied.

As we stated in Order 77-10-111, our earlier expression (in Order 77-6-107) of intent to handle Wright's application under show cause procedures was based in large part upon the fact that up to that point no other carrier had objected to the application. As we also indicated in Order 77-10-111, Allegheny, American, and Delta, which had objected and we were persuaded by their pleadings that Wright's application raised issues which warranted ex- tension at an evidentiary hearing. We pointed out also in Order 77-10-111 that Wright's case should be heard along with the others in order to accord the competing applicants comparative consideration of their respective requests. Wright has cited nothing which would justify any change in that determination.

Wright makes only one argument which was not considered and rejected in our prior order. Wright contends that it should have the benefit of a show cause proceeding because of its small size and the fact that the cost and burden of participating in formal Board proceedings is relatively much greater for Wright than it is for its competitors. In fact, Wright contends that the burden is such that it has been forced reluctantly to file with the administrative law judge a request to withdraw its application and withdraw as a party from the formal proceedings in the "Cincinnati-Cleveland Case." We share Wright's concern over the burden and expense which the prosecution of these cases can impose particularly on small carriers but we  
cannot find that this consideration warrants a show cause order here. As Allegheny points out Wright has already prepared part of its case in support of the motion for expedited hearing which it filed in December 1976 and the burden of continuing in Docket 31311 should not be excessive. Other parties, including the Bureau of Operating Rights, have presented data in the case which are now available to Wright and should relieve some of the burden. In addition, the formal proceeding is far advanced with the hearing set to begin on December 14, 1977. Considering the complications and delay that will result from the legal and other objections which the other carriers will assuredly raise to a show cause order, it seems likely at this point that Wright will be able to obtain a final decision from the Board on its application more quickly and with less burden through the hearing process than through a show cause proceeding.

Accordingly, It is ordered, That: the petition for reconsideration of Order 77-10-111 filed by Wright Air Lines, Inc., on November 18, 1977, be denied.

This order will be published in the Federal Register.

By the Civil Aeronautics Board.

PHILLIS T. KAYLOR,* Secretary.

[FR Doc. 77-35686 Filed 12-13-77; 8:45 am]

[6325-01] CIVIL SERVICE COMMISSION

UNITED STATES INFORMATION AGENCY

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the U.S. Information Agency to fill by noncareer excepted assignment in the excepted service the following positions: (1) General Counsel, Office of General Counsel; (2) Assistant Director (Motion Pictures and Television), Office of the Assistant Director; and (3) Assistant Director, Press and Publications Service.

For the U.S. Civil Service Commission.

JAMES C. SPEY, Executive Assistant, to the Commissioner.

[FR Doc. 77-35802 Filed 12-14-77; 8:45 am]

*All Members concurred.

NOTICES

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

MID ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

The Mid Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet January 11 and 12, 1978 at Brandwyine Hilton Inn, I-95 and Naamans Road, Claymont, Del. 19703. The meeting starts at 9 a.m. on January 11 and will adjourn at about 3 p.m. on January 12.

Proposed Agenda. (1) Squid; (2) mackerel; (3) butterfish; (4) pelagic sharks; (5) update of current plans; and (6) administrative matters.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact John C. Bryson, Executive Director, Mid Atlantic Fishery Management Council, room 2115, Federal Building, North and New Streets, Dover, Del. 19901, 302-674-2331.


WINFRED H. METZBORN, Associate Director, National Marine Fisheries Service.

[FR Doc. 77-35638 Filed 12-13-77; 8:45 am]

[3510-12] SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting


Proposed Agenda. (1) Discussion of management plan development for billfish, snapper-grouper; and king and Spanish mackerel; (2) discussion of foreign participation in U.S. fishing tournaments; and (3) other management business.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact Ernest D. Frenzet, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, suite 306, Charleston, S.C. 29407, 803-571-4386.

Dated: December 9, 1977.

WINFRED H. METZBORN, Associate Director, National Marine Fisheries Service.

[FR Doc. 77-35627 Filed 12-13-77; 8:45 am]

[3510-13] Office of the Secretary

VOLUNTARY CONSUMER PRODUCT INFORMATION LABELING PROGRAM

Finding of Need To Label Thermal Insulation for Homes

AGENCY: Assistant Secretary of Commerce for Science and Technology, Commerce.

ACTION: Notice of Finding of Need.

SUMMARY: Pursuant to the Procedures for a Voluntary Consumer Product Information Labeling Program (15 CFR Part 18), this notice announces a finding of need to label thermal insulation for homes and sets out the bases for such finding. This notice also announces that the Department of Commerce is developing a proposed Performance Information Labeling Specification (Specification) for thermal insulation for homes which will be published in the Federal Register for public comment. These actions are being taken in response to requests that such insulation be labeled.

EFFECTIVE DATE: December 14, 1977.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: On May 25, 1977, the Department of Commerce announced in the Federal Register (42 FR 26647-26651) procedures under which a Voluntary Consumer Product Information Labeling Program (CPILP) administered by the Department would function. The goals of the program are to make available to consumers, at the point of sale, information on consumer product performance and to educate consumers in the use of such information. The program also provides manufacturers and other participants in the program with an opportunity to convey to the public the particular advantages of their products. The program was initiated on a limited pilot project basis, with results to be evaluated at the end of 1 year and a determination made whether to continue CPILP and whether to increase or reduce its scope.

Under § 16.4(a) of the procedures, any person may request the Secretary of Commerce to find that there is a need to label a particular consumer
product with information concerning performance characteristics of that product. By letter dated June 16, 1977, the Federal Energy Administration, Region I, requested that home insulation be labeled. Following that letter, information on the labeling of other energy conservation related products, was be labeled. In a letter dated July 18, 1977, National Consumers League requested that home insulation be labeled were re­ labeled. Subsequent letters asking that home insulation be labeled were re­ ceived from Mr. E. MacDonald, Mr. W. F. Robinson, and Mrs. L. J. Gray. Copies of these requests are available for public inspection and copying in the Department's Central Reference and Records Inspection Facility, room 5317, Main Commerce Building, 14th Street between E Street and Constitu­tion Avenue NW., Washington, D.C. 20230.

In evaluating the mentioned re­ quests, it was felt necessary to obtain supplementary information concerning labeling and information problems relating to thermal insulation for homes, the suitability of this product for labeling under CPILP, the appropriateness of developing a Performance Information Labeling Specification for this product. Accord­ ingly, pursuant to section 16.4(c) of the procedures, such supplementary information has been obtained and evaluated and has, together with the mentioned requests, resulted in the finding of need to label thermal insula­ tion for homes as shown below.

FINDING OF NEED

The requests of Federal Energy Ad­ ministration, Region I; the National Consumers League; Mr. E. MacDonald; Mr. W. F. Robinson; and Mrs. L. J. Gray that thermal insulation for homes be labeled under the Voluntary Consumer Product Information Labeling Program (CPILP) have been examined and the probable usefulness to the public of such action has been carefully considered. Based on the re­ sults of examination, and the supplementary information obtained, it is hereby found that a need exists to label thermal insulation for homes under CPILP. The basis for this finding, which are keyed to the information items listed in section 16.4(b) of the procedures, are as follows:

1. Identification of the Product to be Labeled. Thermal insulation for use in the walls, ceilings, and floors of pri­ vate dwellings is available to consum­ ers in the form of loose-fill, flexible batts and blankets, and boards. The materials available include mineral and organic materials in cellular and in fiber form. To the extent practica­ ble, the nature, characteristics, and performance of those forms of thermal insulation which are normally purchased by con­ sumers for their own use in retrofit­ ting existing housing or in insulating housing under construction.

For the types of thermal insulation under consideration, the performance characteristics of interest to consumers include the thermal insula­ tion properties of the material, the amount or quantity of material in a package, the area that can be insulat­ ed with the material in a package, and the fire properties of the material. The Specification will cover these per­ formance characteristics and may cover other characteristics which, upon further investigation, prove to be of value to consumers and amenable to listing on labels.

2. Extent of Product Use. During the years 1974-76, an estimated 8 million homes were retrofitted with thermal insulation. About 70 percent of this work was done by homeowners. In the first half of 1977, an estimated 2.8 mil­ lion homes were retrofitted, with about 60 percent of the work being done by homeowners. The average annual total of 1.7 million pounds of thermal insulation. It is possible that more than 500 mil­ lion pounds of insulation will be pur­ chased by consumers for their own use in 1977.

Residential use of thermal insula­ tion is expected to increase signifi­ cantly in the future due to increasing fuel costs and interest in energy conserva­ tion. Federal and State governments are providing funds for the use of ther­ mal insulation through proposals such as aid to low-income families, tax rebate plans, building code require­ ments, loan guarantee programs, and other energy conservation legislation. It can reasonably be expected that a significant portion of the resulting work will be performed by home­ owners.

3. Difficulties Experienced by Con­ sumers. Consumers purchasing ther­ mal insulation for installation in their homes are faced with the problem of obtaining some desired amount of thermal resistance, or insulating abili­ ty, over some given area of floor, wall, or ceiling. The method of stating ther­ mal resistance in terms of an “R value” is fairly well standardized in the insulation industry, though many consumers are not yet familiar with the significance of the term “R value.” However, there are at present many ways of stating the effective coverage that can be obtained from a given package of insulation. This is particu­ larly true of loose-fill insulation, where the consumer may need information on packages may be in terms of volume as packed, volume when in­ stalled, area covered when installed with a given thickness of insulating material, and the “R value,” or weight. With so many vari­ ations to consider, it is difficult for consumers to compare the cost and
5. Extent of Consumer Complaints. Though the proper selection of thermal insulation for homes presents significant problems to consumers, there is at present no one channel for consumer complaints. It is clear that the extent of the volume and nature of complaints is not known. However, consumer complaints have triggered responses in several Government and private sector organizations, and these responses provide an indication of the magnitude of the problems being encountered. Some of the responses are:

(a) The Consumer Subcommittee of the Senate Committee on Commerce, Science and Transportation held hearings on energy conservation on September 16 and 17, 1977, at which 6 of the 11 witnesses stated that consumers need more complete information on how to order, or in what amounts, the insulation which is available to State and local governments desiring to add requirements concerning insulation to their regulations or codes, was developed in response to consumer complaint originally registered with the Bureau of Consumer Protection and Environmental Health of the State of Wisconsin.

(b) The Consumer Product Safety Commission held a public hearing on August 22, 1977, on the safety of thermal insulation materials. This hearing was held in response to a petition from the Metropolitan Denver District Attorney's Consumer Office.

(c) The Federal Trade Commission has published in the November 18, 1977 Federal Register, Vol. 42, No. 240—Wednesday, December 14, 1977, a proposed Trade Regulation Rule for thermal insulation materials that would require disclosure—on a label, in advertising, or in a separate leaflet or brochure—of the R value, which is available to State and local governments desiring to add requirements concerning insulation to their regulations or codes, was developed in response to consumer complaint originally registered with the Bureau of Consumer Protection and Environmental Health of the State of Wisconsin.

(d) The Federal Trade Commission has published in the November 18, 1977 Federal Register, Vol. 42, No. 240—Wednesday, December 14, 1977, a proposed Trade Regulation Rule for thermal insulation materials that would require disclosure—on a label, in advertising, or in a separate leaflet or brochure—of the R value, which is available to State and local governments desiring to add requirements concerning insulation to their regulations or codes, was developed in response to consumer complaint originally registered with the Bureau of Consumer Protection and Environmental Health of the State of Wisconsin.

(e) The National Association of Home Builders has recently initiated, and the National Insulation Manufacturers Association is planning to initiate, product certification programs for specific forms of thermal insulation.


The magnitude and variety of the above efforts point to the need for more information on the properties of thermal insulation for homes presented in a uniform, consumer-oriented way.

6. Current Test Methods. Existing test methods and recommended practices listed above are in general use in measuring those physical properties of thermal insulation materials necessary for the determination of insulation effectiveness or compliance with various specifications and building code requirements. To the extent that the listed test methods and recommended practices serve such purpose, they are considered valid. Furthermore, the product specifications, test methods, and recommended practices listed above are among those cited in the Department of Commerce notice of final finding of need to accredit testing laboratories that test thermal insulation materials.
NOTICES

Issued: December 9, 1977.

[FR Doc. 77-35614 Filed 12-9-77; 11:35 am]

DEPARTMENT OF DEFENSE
Office of the Secretary

MILITARY BANKING PROGRAM
Application of the Privacy Act—Modification

AGENCY: Office of the Secretary of Defense.

ACTION: Modification of Notice of Privacy Act Guidelines.

SUMMARY: This will modify guidelines governing the application of the Privacy Act to CPILP labels. The major change is in the model of the statement of individual consent that appears in section (c) of both the original and revised guidelines. As revised, it authorizes the Department of Defense to "verify" rather than to "disclose" a social security number or other identifier. In addition, the material in section (e) in regard to locator assistance now follows the more detailed description given in the Defense Privacy Board guidelines, but there is no change in substance.

DATE: The modification is effective immediately.

FOR ADDITIONAL INFORMATION CONTACT:
Mr. Herbert H. Kraft, Jr., Director for Banking, Office of Assistant Secretary of Defense (Comptroller), the Pentagon, Washington, D.C. 20301, 202-697-8281.

SUPPLEMENTARY INFORMATION:
The general notice promulgated jointly by the Department of the Treasury and the Department of Defense (FR Doc. 76-4313, 41 FR 6779, February 13, 1976) provides guidelines governing the application of the Privacy Act of 1974 to banking institutions operating on U.S. military installations. Although no comments have been received regarding any inadequacies in the guidelines, we are proceeding with the modification described in the Summary, above.

For the sake of clarity, the entire guidelines follow:


(a) Banks, branch banks, and military banking facilities operating on United States military installations do not fall within the purview of the Privacy Act. Such financial institutions do not fit the definition of "agency" to which the Act applies; "any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency." 5 U.S.C. 552(e), 552a(a)(1). Nor are they "government contractors" within the meaning of 5 U.S.C. 552(a)(2), as they do not operate a system of records on behalf of an agency "to accomplish an agency function." According to the Office of Management and Budget Guidelines for Federal agencies regarding implementation of the provision relating to Government contractors applies only to systems of records "actually taking place of a Federal system which, but for the action of a contractor, would have been performed by an agency and covered by the Privacy Act." 40 FR 28976 (July 9, 1975) Clearly, the subject institutions do not meet these criteria.

Since the Act does not apply to them, such institutions are not required to comply with the provisions of 5 U.S.C. 552a(e)(3) in obtaining and making use of personal information in their relationships with personnel authorized to use such facilities. Thus, such institutions are not required to inform individuals from whom information is requested of: (1) the authority for its solicitation, (2) the principal purpose for which it is intended to be disclosed, (3) the precise uses which may be made of it, or (4) the effects of not providing the information. There also is no requirement to post information of this nature at banking institutions on military installations.

(b) The banking institutions concerned hold the same position and relationship to their customers and to the Government as they did before enactment of the Privacy Act. Within their usual business relationships, they are still responsible for safeguarding the information provided by their clients and for obtaining only such information as is reasonable and necessary to conduct business. This includes credit information and proper identification, which may include Social Security number, as a precondition for the earning of checks.

(c) Military banking facilities should, and banks and branch banks may, incorporate the following conditions of disclosure of personal infor-
mation in all contracts, including loan agreements, savings and checking accounts and other deposit agreements, and any other agreements signed by their customers:

I hereby authorize the Department of Defense and its various Departments and Commands to verify my social security number or other identifier and my home address to financial institution officials so that they may contact me in connection with my banking business with that particular financial institution. All information furnished will be used solely in connection with my financial relationship with that particular financial institution.

When the financial institution presents such signed authorizations, military commands or installations shall provide the appropriate information.

(d) Even though the agreement described in paragraph (e) has been obtained, the Department of Defense (DOD) is to provide banks, branches, and military banking facilities with salary information and, where pertinent, the length or type of civilian or military appointment consistent with the Privacy Act and Freedom of Information Act. Some examples of personal information to be released without the creation of an unwarranted invasion of personal privacy are: name, rank, date of rank, salary, present and past duty assignments, future assignments which have been finalized, office phone number, source of commission, and promotion sequence number.

(e) In those cases in which a Department of Defense member with a financial obligation is reassigned, and fails to inform a banking enterprise or individual of his or her whereabouts, the remedy is to seek the locator assistance of the individual’s last known commander or supervisor at the official position or duty station within that particular Department of Defense component. That commander or supervisor shall either furnish the individual’s new official duty location address to the requestor or forward, through official channels, any correspondence received pertaining thereto to the individual’s new commander or supervisor for appropriate assistance and response. Correspondence addressed to the individual concerned at his or her last official place of business or duty station is forwarded, as provided by postal regulations to the new location, but the individual may choose not to respond. However, once an individual’s affiliation with the Department of Defense is terminated through separation or retirement, the locator assistance the Department may render in the disclosure of home address is severely curtailed unless the public interest dictates disclosure of the last known home address. The Department may, at its discretion forward correspondence to the individual’s last known home address. The individual may choose not to respond, and the Department of Defense will not act as an intermediary for private matters concerning former Department personnel who are no longer affiliated with it.

(f) Questions concerning this guidance should be forwarded through channels to the Director of Banking, International Finance and Professional Development, Office of the Assistant Secretary of Defense (Comptroller), the Pentagon, Washington, D.C. 20301.

DAVID MOSSEO, Fiscal Assistant Secretary Department of Energy

MAURICE W. ROCHE, Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

DECEMBER 9, 1977.

[FR Doc. 77-35793 Filed 12-13-77; 11:29 am]

Bonneville Power Administration

MARKETING POLICY FORMULATION

Final Procedures for Public Participation

On August 3, 1977, the Bonneville Power Administration published in the FEDERAL REGISTER a draft of “Marketing Policy Formulation Procedure for Public Participation” (42 FR 38277). The public comment period was open from that date until October 3, 1977. Twenty-five communications were received in response to this notice.

A detailed review of the comments was made, and copies of the comments and of that review are available for public inspection at the office listed below:

Deputy Secretary of Energy John F. O’Leary will preside at the meeting. A transcript of the meeting will be prepared and copies will be made available to interested persons upon request.


WILLIAM S. HEFFELFINGER, Director of Administration, Department of Energy.

(FR Doc. 77-35795 Filed 12-13-77; 11:29 am)

Bonneville Power Administration

INSULATION MATERIALS

Meeting

AGENCY: Department of Energy.

ACTION: Notice of Meeting.

SUMMARY: The Department of Energy will sponsor a meeting on December 16, 1977, to discuss actions which can be taken to expand the supply of insulation. The meeting will be open to the public.

DATE: Meeting: 10:00 a.m., December 16, 1977.

ADDRESS: Room 3000A, Federal Building, 12th and Pennsylvania Ave. NW., Room 6521A, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

On December 16, 1977, the Department of Energy (DOE) will sponsor a meeting to discuss actions which can be taken to expand the supply of insulation more rapidly in the near future. DOE is particularly interested in identifying programs and policies of the Federal Government that can help to achieve this goal. Proprietary information will not be discussed at the meeting.

Representatives of a number of insulation manufacturers and distributors and suppliers of insulation raw material are expected to attend the meeting. Any other interested persons are invited to attend the meeting.

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977

WILLIAM S. HEFFELFINGER, Director of Administration.

DECEMBER 8, 1977.
Purpose and scope. The purpose of this procedure is to ensure that the views and positions of all interested and affected parties are represented in the development of BPA Marketing Policies, as defined in the following section 2, prior to BPA’s decisions or actions to participate in developing or implementing Marketing Policies. This procedure shall apply to Marketing Policy formulation, and not implementation.

Definitions—Administrator. The BPA Administrator.

c.

Customer. Any person or entity whose interests the Responsible Official determines will be substantially affected by the Proposed Marketing Policy and who currently is purchasing, exchanging, transferring, assigning, or selling electric power and energy, related services, or transmission capability to, with, or from BPA.

d.

Marketing Policy. A policy which allocates electric energy or capacity available from the Columbia River Power System, or a policy the Administrator determines will, over a period of years, significantly affect the manner in which BPA implements its statutory authority to sell, exchange, otherwise dispose of, or acquire electric power and energy, or provide for transmission service, or delay of plant reserves.

e.

Proposed Marketing Policy. One under consideration for adoption as a Marketing Policy.

f.

Notice. The method by which Customers and the Public shall be informed of BPA’s intention to develop a new or revised Marketing Policy, a Proposed Marketing Policy, a revision of a Proposed Marketing Policy, or a Marketing Policy.

4.

Purpose and scope.

5.

Proposed Marketing Policy. Notice to be given at least 30 days in advance of any such forum shall include the purpose of the Notice of either a Proposed Marketing Policy or a marketing forum, and procedures for adopting a Marketing Policy. Notice shall be by and effective on publication in the Federal Register and wherever a time period is provided, the date of publication shall determine the commencement of the time period. Notice shall also be given by mail to the individual representatives of any agencies that have requested in writing that they receive written notice regarding a proposed Marketing Policy. A forum on a Marketing Policy subject. The Responsible Official may also direct that Notice be published in a general circulation newspaper in the BPA Marketing area and mailed to Customers and the Public identified by the Responsible Official. Notice shall include the name, address, and telephone number of the person to contact if participation or further information is sought. Notices may be combined.

6.

Public. Any person who, or group or entity which, has or could have a direct and significant interest in the BPA Marketing Policy.

g.

Responsible Official. The BPA employee designated by the Chairman to initiate this procedure to be responsible for formulating the specified Marketing Policy.

h.

Staff Evaluation. A written evaluation by BPA staff of the comments, questions, and reasons for them. The evaluation shall become part of the Official Record.

Purpose and scope.

The purpose of this procedure is to enable individuals and organizations, public and private, whose interests will be substantially impacted by Bonneville Power Administration (BPA) decisions or actions to participate in development of BPA Marketing Policies, as defined in the following section 2, prior to BPA’s decisions or actions to participate in developing or implementing BPA Marketing Policies, as defined in the following section 2, prior to BPA’s decisions or actions to participate in developing or implementing Marketing Policies. This procedure shall apply to Marketing Policy formulation, and not implementation.

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Responsible Official. The BPA employee designated by the Chairman to initiate this procedure to be responsible for formulating the specified Marketing Policy.

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NOTICES

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
NOTICES

11. Emergency Marketing Policy Implementation. If the Administrator determines prior to initiation or completion of the foregoing proceeding that a delay in implementing a Marketing Policy would adversely affect BPA, its Customers, or the Public, the Administrator may implement the Marketing Policy on an interim basis until this procedure is completed.

[PR Doc. 77-35610 Filed 12-9-77; 12:29 pm]

[3128-01]

Economic Regulatory Administration

CASES FILED WITH THE OFFICE OF ADMINISTRATIVE REVIEW

Week of November 25 Through December 2, 1977

Notice is hereby given that during the week of November 25 through December 2, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Administrative Review.

APPENDIX—List of cases received by the Office of Administrative Review, November 25 through December 2, 1977

Date Name and location of applicant Case No. Type of submission

11/25/77 Rex Archer, Robert Braden, J. R. Dougherty, et al., Kansas. If granted: The remedial orders issued by DOE region VII on Nov. 19, 1977, would be rescinded and the working interest owners would not be responsible for complying with the refund requirements of the remedial orders regarding sales of crude oil from the Zenith water flood unit located in Stafford and Harper counties in Kansas.

11/25/77 Ernest E. Allerkamp, San Antonio, Texas. If granted: The Sept. 9, 1977 remedial order issued by FEA region VI would be rescinded and Allerkamp would not be required to refund overcharges made in the sales of crude oil produced from the Half & Oppenheimer and M. A. Tyler leases.

11/25/77 Estates of Inez and Loyce Phillips, Austin, Texas. If granted: The estates of Inez and Loyce Phillips would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Nan-su-Gail plant prior to June 1, 1977.

11/25/77 Pioneer Operations Co., Inc., Russell, Kansas. If granted: The Nov. 11, 1977 remedial order issued by DOE region VII would be rescinded and Pioneer Operations Co., Inc. would not be required to refund overcharges made in its sales of crude oil produced from the "Ben Rein" and "Pfluger" leases located in Russell County, Kansas.

11/28/77 Goose Creek Oil Co., Inc., Salem, Illinois. If granted: Goose Creek Oil Co. would be permitted to sell the crude oil produced during June 1977 from the Robinson No. 4 lease located in Marion County, Illinois, at upper tier ceiling prices.

11/28/77 Petroleum, Inc., Wichita, Kansas. If granted: Petroleum, Inc. would be permitted to sell crude oil produced from the Crowder lease located in Cleveland County, Oklahoma, at prices in excess of the lower tier ceiling price.

11/29/77 Allied Chemical Corp. (UTP), Houston, Texas. If granted: Allied Chemical Corp. (UTP) would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Chaney Dell and Toca processing plants.

11/29/77 Atlantic Richfield Co., Dallas, Texas. If granted: Atlantic Richfield Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Stevens Conversion Plant.

11/29/77 Charles W. Austin, Billings, Montana. If granted: The remedial order issued by DOE region VII would be rescinded and Charles Austin would not be required to refund overcharges made in the sales of crude oil produced from the State lease 1294 46B.

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
**Appendix.—List of cases received by the Office of Administrative Review, November 25 through December 2, 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>11/29/77</td>
<td>Phillips Petroleum Co., Bartlesville, Okla.</td>
<td>IF...</td>
<td>DEE-0320...</td>
</tr>
<tr>
<td>11/29/77</td>
<td>Robert E. Hanson, Riverton, Wyo.</td>
<td>IF granted:</td>
<td>DEE-0320...</td>
</tr>
<tr>
<td>11/29/77</td>
<td>Sabre Refining, Inc., Bakersfield, Calif.</td>
<td>IF granted:</td>
<td>DEE-0325...</td>
</tr>
<tr>
<td>11/29/77</td>
<td>Eastern Oil Co., Tampa, Fla.</td>
<td>IF granted:</td>
<td>DEE-0340...</td>
</tr>
<tr>
<td>11/30/77</td>
<td>United Texas Transmission Co., Houston, Tex.</td>
<td>IF granted:</td>
<td>DRA-0063...</td>
</tr>
<tr>
<td>12/1/77</td>
<td>Anadarko Production Co., Houston, Tex.</td>
<td>IF granted:</td>
<td>DSE-0005...</td>
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</tbody>
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**NOTICES**

**Appendix.—List of cases received by the Office of Administrative Review, November 25 through December 2, 1977**

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<td>11/29/77</td>
<td>Standard Oil Co., Chicago, Ill.</td>
<td>IF granted:</td>
<td>DFA-0061...</td>
</tr>
<tr>
<td>11/29/77</td>
<td>Eastern Oil Co., Tampa, Fla.</td>
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<td>DSE-0005...</td>
</tr>
</tbody>
</table>

**Notices of Objection Received, November 25 Through December 2, 1977**

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
The application states that Alcoa has contracted with PAR Oil Corp., et al., to purchase for a period ending December 8, 1977, a daily quantity of 3,920 MCF of natural gas of which 465 MCF per day would be used at Alcoa's Cleveland, Ohio, facility. The application further states that Alcoa would pay PAR $2.06 per MCF plus BTU adjustment if appropriate for the subject gas. It is indicated that the gas is not available to the interstate market. An application by Columbia Gas Transmission Corp. (TGT) for authority to transport up to 425 MCF of natural gas per day for Alcoa pursuant to an agreement dated July 29, 1977, between the two parties, which volumes would be received by Applicant into its system and unaccounted for gas, is subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules. Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory 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 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 hearing will be given.

Under the procedure herein provided for, unless otherwise advised, it provide a means for converting to non-gaseous fuel furnaces of this design. It is indicated that the coating equipment at the Lebanon Works requires a gaseous fuel in order to achieve the exact temperature control necessary in the coating process as well as to provide the clean, uncontaminated surface required by the food packaging industry.

Applicant states that its charge for the proposed service would be its average systemwide unit storage and transmission costs exclusive of company-use and unaccounted-for gas, which is 20.56 cents. Applicant states that it would also retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Alcoa, which percentage is currently 4.0 percent.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 23, 1977, file with the Federal Energy Regulatory 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 thereon must file a petition to intervene in accordance with the Commission's Rules.

Take notice that on November 16, 1977, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP 78-90 an application pursuant to Section 7(c) of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 425 MCF of natural gas per day for American Electric Power Service Corp. (Applicant) for 2 years, all as more fully set forth in the application of file with the Commission and open to public inspection.

Supplemental Application Pursuant to Section 305(b) of the Federal Power Act

Take notice that John R. Burton on October 28, 1977, tendered for filing a Supplemental Application Pursuant to section 305(b) of the Federal Power Act for authority to hold the position of Director of the Michigan Power Co. The Applicant indicates that he was elected to this position on September 22, 1977, effective October 1, 1977. The Applicant indicates that he presently holds the following:

Name of Corporation and Position
American Electric Power Service Corp., director, vice president, and secretary.
Appalachian Power Co., secretary.
Beech Bottom Power Co., Inc., secretary.
C&O Gas Co., secretary.
Cedar Coal Co., secretary.
Central Appalachian Coal Co., secretary.
Central Coal Co., secretary.
Central Ohio Coal Co., secretary.
Central Operating Co., secretary.
Franklin Real Estate Co., secretary.
Indiana Franklin Realty, Inc., secretary.
Indiana & Michigan Electric Co., secretary.
Kanawha Valley Power Co., director.
Kentucky Power Co., secretary.
Kingsport Power Co., secretary.
Michigan Gas Exploration Co., secretary.
Ohio Electric Co., secretary.
Ohio Power Co., secretary.
Southern Appalachian Coal Co., secretary.
Southern Ohio Coal Co., secretary.
Twin Branch Railroad Co., secretary.
West Virginia Power Co., secretary.
Wheeling Electric Co., secretary.
Windsor Power House Coal Co., secretary.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 23, 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. Plumb, Secretary.
[FR Doc. 77-35674 Filed 12-13 77 8:45 am]
NOTICES

[6740-02] (Docket No. ID-1779)

RICHARD E. DISBROW

Notice of Supplemental Application Pursuant to Section 305(b) of the Federal Power Act

DECEMBER 8, 1977.

Take notice that Richard E. Disbrow on October 31, 1977, tendered for filing a Supplemental Application pursuant to Section 305(b) of the Federal Power Act for authorization to hold the following positions:

NAME OF CORPORATION AND POSITION

Kanawha Valley Co., director.
Ohio Electric Co., director and vice president.

The Applicant indicates that he was elected to the above positions on September 28, 1977, effective October 1, 1977. The Applicant indicates that he presently holds the following positions:

NAME OF CORPORATION AND POSITION

American Electric Power Service Corp., director; vice president, controller.
Appalachian Power Co., director, vice president.
Castlegate Coal Co., Inc., director, vice president.
Central Appalachian Coal co., director.
Central Ohio Coal Co., director.
Franklin Real Estate Co., director, vice president.
Indiana & Michigan Electric Co., director.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory 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 December 23, 1977. Petitions will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb, Secretary.

[FR Doc. 77-35671 Filed 12-13-77; 8:45 am]

[6740-02] (Docket No. CP74-126)

EL PASO NATURAL GAS CO.

Petition to Amend

DECEMBER 8, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 708(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ---, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on November 23, 1977, El Paso Natural Gas Co. (Petitioner), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP74-126 a petition to amend the order of April 2, 1975 (53 FPC ---), as amended, issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so to permit the operation of an additional exchange point for the exchange of natural gas with Natural Gas Pipeline Co. of America (Natural) in Eddy County, N. Mex., all as more fully set forth in the petition to amend on file with FERC and open to public inspection.

It is indicated that pursuant to the FPC order of April 2, 1977, as amended, in the instant docket and Docket No. CP74-162, Petitioner and Natural, respectively, were granted authorization to construct and operate certain facilities and to exchange natural gas.

Kenneth F. Plumb, Secretary.

[FR Doc. 77-35673 Filed 12-13-77; 8:45 am]
in quantities aggregating up to 65,000 Mcf daily.

The petition states that Natural has advised Petitioner that it has acquired additional natural gas supplies in Eddy County, N. Mex., which it desires to cause to be delivered to Petitioner under the existing exchange arrangement. Natural has contracted to purchase production from Cities Service Oil Co.'s (Cities' Government AB No. 3 and No. 4 wells, located in Eddy County, N. Mex., it is indicated. It is further indicated that such gas supplies are situated in close proximity to Petitioner's and Cities' existing system. In order that Natural may obtain such additional gas supplies, Petitioner and Natural have executed an amendatory agreement, No. 8, dated October 12, 1977, further amending the gas exchange agreement dated September 24, 1973, as previously amended, which amendatory agreement provides that Natural would deliver, or cause the delivery of natural gas for its account, to Petitioner at the tailgate of Cities' processing plant located in Eddy County, N. Mex. (the Eddy No. 7 Exchange Point), it is said. It is stated that deliveries of natural gas to Petitioner at Cities' processing plant would be commingled with the natural gas purchased by Petitioner from Cities and delivered into Petitioner's existing gathering system facilities, which facilities have been installed, owned and are operated by Petitioner.

Petitioner states that no material change in its average cost of service would result upon effectuation of the instant proposal.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 28, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the provisions of the Department of Energy Organization Act (DOE Act), (Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The “savings provisions” of section 705(b) of the DOE Act provide that proceedings pending before the FERC on the date on which the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled “Transfer of Proceedings to the Secretary of Energy and the FERC,” 10 CFR 42-02, provided that these proceedings would be continued before the FERC. The FERC takes action in these proceedings in accordance with the above-mentioned authorities.

On August 11, 1977, Harkins & Co. (Harkins), in Docket No. C177-721 for itself and as operator for Amerada Hess Corp. and St. Joe Petroleum (T.S.) Corp., filed a 2-year limited-term certificate with pregranted abandonment authorization the sale of natural gas for resale in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco). On August 25, 1977, Amerada Hess Corp. (Amerada) in Docket No. C177-758, filed a similar application. The gas to be sold will be produced from the No. 1 Board of Supervisors Well and the No. 1 Tolar Unit Well (15–6) in Greens Creek Field, Jefferson Davis, and Marion Counties, Miss.; the initial sales volumes are estimated by Harkins to be 420,000 Mcf per month, including 105,000 Mcf attributable to Amerada's interest. The proposed rate is $1.81 per Mcf, plus 10.86 cents per Mcf tax reimbursement with an increase of 1 percent of the price each calendar quarter.

The July 27, 1977, Agreement between Harkins and Amerada and Transco stated that the Agreement would terminate 2 years from the date of receipt and acceptance of the authorization requested from the Commission or at the end of the initial 60-day emergency sale, whichever occurred first. During this 2-year period, Transco will receive all gas produced from the No. 1 Board of Supervisors Well and the No. 1 Tolar Unit Well (15–6). Transco will also purchase all gas obtained from subsequent wells drilled in the Greens Creek Field between this 2-year period; Harkins has recently completed drilling and logging its third well. Deliveries are expected to increase at the rate of approximately 6,000 to 7,000 Mcf per day. Additional well equipment is required to install and own all the facilities necessary to purchase this gas.

The application was supplemented on September 6, 1977, with additional information submitted in response to staff inquiry. On October 20, 1977, Harkins filed additional information in a second supplement to the original application in Docket No. C177-758. On October 25, 1977, at staff's request, the application was referred to a joint regulation the subject of which was filed a schedule of well completions and estimated production from the Greens Creek Field.

At the time the applications were filed, Harkins and Amerada were selling the Greens Creek field gas to Transco pursuant to section 157.39 of the Regulations under the Natural Gas Act (18 CFR § 157.39). Deliveries under this 60-day emergency sale began on August 1, 1977, and ended on September 29, 1977. At the present time, no Greens Creek Field gas is being delivered to Transco.
On August 10, 1977, C & K Petroleum Inc., et al., filed an application for a 3 year limited-term certificate with pregranted abandonment authorizing the construction and operation of additional wells. The acreage to be sold is attributable to C & K's interest in production from the Jefferson Island Field, Iberia Parish, La. C & K has drilled 2 deep wells and proposed to include 10 additional wells. The initial deliveries are estimated to be 15,000 Mcf per day with additional volumes to be made available as new wells are completed and placed production. The proposed rate is $2.03 per Mcf at 15,025 psia, plus tax reimbursement amounting to 7 cents per Mcf, subject to upward and downward Btu adjustment from a base of 1,000, with quarterly escalations after the first year of 1 percent. In addition, the contract provides that Transco will purchase C & K's existing surface gathering and purification equipment at a cost of $173,000, and that C & K will repurchase the items from Transco at the end of the limited-term at a cost of $173,000 less depreciation, unless the parties shall have executed a long-term contract.

The Harkins and Amerada applications were noticed on September 7, 1977. The C & K application was noticed on September 8, 1977. Transco filed petitions to intervene in support of the applications on August 26, 1977. No other protests or petitions to intervene have been filed. Transco has filed an application in Docket No. CP77-621, seeking authorization to transport the subject gas for the period of transco's supply situation will continue to be serious. However, that probability alone does not permit us to find emergency justification for granting these certificates for the terms proposed and at the prices proposed.

On the question of the limited availability of such gas supply to Transco, the only record evidence presented to us is the assertion on behalf of the applicants that they were unwilling to commit to a long-term contract. We take note of the continuing availability for the Commission to grant abandonment authorization upon a finding that the "present or future public convenience and necessity" warrants permission to abandon, and said that "The power to authorize an abandonment upon finding that it is justified by future public convenience and necessity clearly encompasses advance authorization warranted by consideration of future circumstances and the necessary estimation of tomorrow's needs." The Court also stated, "Furthermore, the FPC may determine whether demand and conditions require that pregranted abandonment be authorized in appropriate cases to encourage exploration for new gas and its dedication to the interstate market." While the Court in Moss was considering FPC authority to issue pregranted abandonment certificates.
abandonment authorization in the context of optional procedure certification, its rationale is equally applicable to the issuance of limited-term certificates with pregranted abandonment, inasmuch as the statutory standards are identical.

We have examined the record before us in the subject applications to determine whether the facts therein would support the conclusion that pregranted abandonment has become a feature which should be afforded as a matter of competitive necessity with regard to purchases from onshore intrastate markets. However, the record before us does not provide us the basis for taking that step, and the presentations of the parties did not support our dispensing with the limited availability test for onshore production in a competitive market area. This conclusion is without prejudice to our finding appropriate bases exist in other cases which may be presented to us.

Lastly, in our search for support for the price proposed to be paid, we discover that the proposed price for Harkins and Amerada is clearly in excess of the current intrastate market in Mississippi. Form 45 data on intrastate contracts for the third quarter of 1977 show no new contracts in Mississippi. The Commission acknowledges that Harkins has submitted information on four contracts in the State at increases to $1.80 per MMBtu (TR 24, 26-29) and two offers for its own gas at $1.80 per MMBtu plus $1.81 per MMBtu at the wellhead. Even accepting these prices and offers to purchase as indicative of the current market, the Commission observes that the proposed price negotiated between Harkins and Transco is excessive, especially when it is considered that the contract would require Transco to purchase and install any additional gathering facilities (a cost traditionally borne by the Producer). In the case of C & K, we have received telegram notices of two recent firm offers comparable to the proposed contract price with Transco. However, the Applicant cannot carry the burden of showing that the contract price constitutes "the lowest price at which the particular supply of gas may be obtained" simply by presenting evidence that there may be others willing to pay a comparable amount. In essence, Applicant asks us to conclude that the requirements of the Natural Gas Act are met merely by showing that the price proposed does not exceed the highest bid in the unregulated market. Such a finding is beyond our legal latitude."

It, of course has been argued by Applicants that Transco must pay the rates proposed, and incur other related costs, so that Transco, as an interstate pipeline, in severe curtailment will have equal access to onshore supplies of natural gas. Otherwise, it is argued, Transco will be unable to attract sufficient amounts of onshore supplies of natural gas to its system. While we have attempted to search the record for support for these sales, we have been unable to discover lawful means for achieving that result. We cannot stretch the fabric of the Natural Gas Act to grant Transco parity of access to gas supplies in the unregulated onshore markets as they have here proposed. FPC v. Texaco, Inc. 417 U.S. 380 (1974).

Perforce of this continued disparity of access to the important additional supplies, the customers of Transco are unfortunately required to bear the burden of curtailment, as well as the higher cost of alternate fuels. The continued existence of this disparity also adversely affects the national interest as a whole. However, the Commission simply lacks the means within the bounds of its statutory authority under the facts presented to us to approve these proposed limited-term transactions at the rates proposed for the term proposed. To approve these transactions as proposed would be inconsistent with our responsibilities under the Natural Gas Act as we have interpreted them under Opinion No. 699-B. Accordingly, we are constrained to deny these applications.

The Commission finds: (1) Good cause exists to consolidate for the purposes of decision the applications filed in Docket Nos. CI77-721, CI77-124 and CI77-758. (2) The applications for limited-term certificates filed in this proceeding by Harkins, Amerada and C & K should be denied. The Commission orders: (A) The applications filed in Docket Nos. CI77-721, CI77-124 and CI77-758 are hereby consolidated for purposes of decision. (B) The applications for limited-term certificates filed in this proceeding by Harkins, Amerada and C & K are hereby denied. (C) Transco is permitted to intervene in the above entitled proceeding, subject to the rules and regulations of the Commission, provided, however, that its participation shall be limited to matters affecting its asserted rights and interests specifically set forth in its petition for leave to intervene; and provided, further. That the admission to Transco in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that it agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB, Secretary.

[FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977]

NOTICES

McDowell states that it is the holder of a small producer certificate issued by the Federal Power Commission in Docket No. CS75-76, and that it is presently selling natural gas production from its McDowell Oil Properties No. 1 Ball Well, SW SE Section 31 17 N., 5 E., Wildhorse Field, Lincoln County, Okla., to Cities Service Gas Co. McDowell is presently collecting a rate of 53 cents per Mcf for such gas, and states that continued production at the current rate is not economical. McDowell proposes to engage in deeper drilling and to invest an additional $109,700.00 in the well in order to continue production. McDowell requests authorization to collect a base rate of 132 cents per Mcf for gas from its well.

Any person desiring to be heard or to make any protest with reference to said petition should, on or before December 28, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Statements of General Policy and Interpretation (18 CFR 2.76).

Provided, further, to matters affecting its asserted rights and interests, the Commission, any party, or any person desiring to be heard or to make any protest with reference to said petition should, on or before December 28, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Statements of General Policy and Interpretation (18 CFR 2.76).

[FR Doc. 77-35669 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. R178-15]

MCDOWELL OIL PROPERTIES, INC.

Petition for Special Relief

DECEMBER 8, 1977.

Take notice that on November 28, 1977, McDowell Oil Properties, Inc. (McDowell), suite 110, 2215 West Lindsey, Norman, Okla. 73069, filed in Docket No. R178-15, a petition for special relief pursuant to section 2.76 of the Commission's Statements of General Policy and Interpretation (18 CFR 2.76).

Provided, however, the C & K contract would require Transco to purchase and install any additional gathering facilities (a cost traditionally borne by the Producer). In the case of C & K, we have received telegram notices of two recent firm offers comparable to the proposed contract price with Transco. However, the Applicant cannot carry the burden of showing that the contract price constitutes "the lowest price at which the particular supply of gas may be obtained" simply by presenting evidence that there may be others willing to pay a comparable amount. In essence, Applicant asks us to conclude that the requirements of the Natural Gas Act are met merely by showing that the price proposed does not exceed the highest bid in the unregulated market. "Such a finding is beyond our legal latitude." 

Moreover, the C & K contract would require Transco to purchase purification facilities and to pay for additional gathering facilities, again requiring Transco's customers to bear costs traditionally borne by the producer.

"See, for example: Consumer Federation of America v. FPC, 515 F.2d 347 (1975); Atlantic Refining Co. v. Public Service Commission, 360 U.S. 378; FPC v. Sunray D. Oil Co., 391 U.S. 9."
NOTICES

[6740-02]

(Docket No. ER78-72)

MONTAUP ELECTRIC CO.

Proposed Fuel Clause Revision

DECEMBER 7, 1977.

Take notice that Montaup Electric Co. (Montaup), on November 28, 1977, filed a proposed change to its fuel cost adjustment clause to eliminate the one-month lagging feature and convert to a current month billing basis. Montaup states that the affected wholesale customers are Montaup's three affiliated customers, Brockton Edison Co., Fall River Electric Light Co., and Blackstone Valley Electric Co., and four non-affiliated customers, Newport Electric Corp., Passacon Fire District, Town of Middleborough, Mass., and the Tiverton Division of The Narragansett Electric Co., all of which have been served with the filing.

Montaup requests that the proposed change be permitted to become effective January 1, 1978. Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory 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 and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 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. PLUMB,
Secretary.

[FR Doc. 77-35663 Filed 12-13-77; 8:45 am]

[6740-02]

(Docket No. CP76-285, et al.)

MOUNTAIN FUEL RESOURCES, INC.

Order Clarifying Order of September 30, 1977

DECEMBER 6, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 365 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC), which as an independent commission within the Department of Energy, was activated on October 1, 1977.

The “savings provisions” of section 708(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled “Transfer of Proceedings to the Secretary of Energy and the FERC,” 10 CFR 402, provided that this proceeding should be continued by the FERC. The instant Order takes action in this proceeding in accordance with the above-mentioned authorities.

On November 10, 1977, El Paso Natural Gas Co. (El Paso), filed a “Petition of (El Paso) for Clarification” pursuant to section 1.7 of the rules of practice and procedure of the Federal Energy Regulatory Commission (FERC). Said petition seeks clarification as to the scope of the limited hearing delineated by the “Order Consolidating Applications, Granting Temporary Ceremonies, Granting Interventions, Providing in Part For Formal Hearing and Prescribing Procedures” issued by the Federal Power Commission (FPC), on September 30, 1977. The six consolidated applications that were the concern of the Order in question “represented a preliminary long term plan for the development and use of storage facilities with short term transportation arrangements and, a limited interim project,” in support of the petition, El Paso argues that the Order of September 30, 1977, could be subject to misinterpretation. El Paso states that their understanding is that the Order set the hearing for:

Consideration of the “two specific issues * * of particular concern to Staff” (slip op. at 7), which are enumerated in the Order under the heading “Procedures and Issues for Hearing” (slip op. at 8); to wit:

1. What is the proper percentage depreciation that should be applied to the cost of the services of the Field?

2. What is the proper percentage rate of return that should be applied to the operation of the services of the Field?

(Petition at 2). El Paso further argues, again referring to the September 30, 1977, Order:

AEPCO is the only party to have requested a hearing in this case, and it only as to its particular allegations. Under the heading “Temporary Authorization and Deferral of Hearing on Interim Project” (slip op. at 7), the FPC addressed each of AEPCO’s allegations “to show that each is inconsistent with on-going proceedings * * * thus vitiating any need for hearing in the instant proceeding other than as provided for herein” (slip op. at 8, footnote). AEPCO argued “that any detrimental effect that may be occasioned by this project can be easily remedied by the above-cited, ongoing, system-wide proceedings” (slip op. at 10) (Petition at 2).

El Paso concudes its petition with a discussion of the theory AEPCO has so far put forth in its various filings in this consolidated proceeding.

On November 21, 1977, AEPCO filed an “Answer of AEPCO,” to Petition of (El Paso), for Clarification” pursuant to section 1.9 of the rules of practice and procedure of the FERC. AEPCO prayed “the Commission to immediately deny AEPCO’s Petition for Clarification and to direct the Presiding Judge to certify the question raised by that pleading to it for decision.” (Answer at 7). Disregarding the inherent inconsistency of this prayer, the instant Order Clarifying the Order of September 30, 1977, will be considered to decide the question raised by the petition for clarification. No other opposition or support has been filed in response to this petition.

We note that between the filing of the instant petition and Commission consideration, a prehearing conference was held on November 15, 1977, before Presiding Administrative Law Judge Graham W. McGowan. The first issue raised therein concerned whether Judge McGowan should rule on the scope of the Order of September 30, 1977, or should be deferred pending Commission action upon the instant petition. The remaining discussion involved statements of position on the scope of the hearing and the proper interpretation of the Order setting the consolidated Proceedings for hearing. We will consider the positions stated by the parties on the record at the prehearing conference as being their position with regard to the matter now before us.

Recognizing that the Commission is not compelled to act upon the instant petition within a definite period of time, Presiding Judge McGowan was

AEPCO has filed asserted pleadings and supplements dated August 23, September 26 and 28, October 23, and November 1, all of this year, as well as an answer to this petition filed November 21, 1977.

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concerned that the hearing should not be unduly delayed. In addressing the dilemma, he stated:

I think to be helpful in having a prompt hearing of the case, rather than to try to issue any order that should clarify or seek to clarify, at this time, I am going (sic), to ask the parties here to file briefs, not directed to the issue of clarification precisely, but briefs which will bring me up to date, which will relate the six dockets, those issues which are in common, in a single docket, and then, if the parties will, please address yourselves to the issue you believe remains, above and beyond what (sic), the Commission itself said is the most important of the two issues which are in the September 30 order, which I think are going to be given priority of attention. But it is certainly possible there are other issues that need to be considered. (Tr. 50.)

A date of December 12, 1977, was agreed upon as a mailing date for the required briefs and a further prehearing conference was scheduled for January 5, 1978.

As Presiding Judge McGowan states: "I think the Commission's order is quite clear." (Tr. 50), we are of like mind. However, upon review we find it appropriate to restate the issues which should be developed during the hearing, to wit:

1. What is the proper percentage depreciation that should be applied over the life of the Field, and what is the duration of that life?

2. What is the proper percentage rate of return that should be applied to the operation of the services of the Field?

We do not find the issues raised by AEPCO relevant to the instant proceedings to be taken, but will not serve to make protestants parties to the proceeding.


(B) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

LOIS D. CASHELL, Acting Secretary.

[FED Doc. 77-35666 Filed 12-13-77; 8:45 am]

NIAGARA MOHAWK POWER CORP.

Cancellation

DECEMBER 7, 1977.

Take notice that Niagara Mohawk Power Corp. (Niagara), on November 29, 1977, tendered for filing a proposed change in its FPC Electric Service Tariff No. 3. Niagara states that the proposed change is the cancellation of the November 15, 1940 agreement between Niagara and New England Power Co.

Niagara further states that the aforementioned agreement for exchange of surplus power has since been superseded by subsequent agreements. These are: (1) an agreement between Niagara and the New England Power Exchange filed as Niagara's Rate Schedule FPC No. 65, and (2) an agreement between Niagara and the New England Power Pool, which superseded FPC No. 65, and is on file as Niagara's Rate Schedule FPC No. 74.

Niagara proposes an effective date of December 28, 1977, and therefore requests waiver of the Commission's notice requirements.

According to Niagara a copy of this filing was served upon New England Power Co. and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Paragraphs 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 December 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. PLUMM, Secretary.

[FED Doc. 77-35665 Filed 12-13-77; 8:45 am]

CARL E. SMITH, INC.

Petition for Special Relief

DECEMBER 8, 1977.

Take notice that on November 8, 1977, Carl E. Smith, Inc. (CES), P.O. Box No. 4, Sandyville, W. Va. 25275, filed a petition for special relief in

[6740-02] (Docket No. ER78-10)

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Docket No. RI78-10, pursuant to section 2.76 of the Commission's rules of practice and procedure. CES seeks authorization to charge $1.79 per Mcf for gas sold to Consolidated Gas Supply Corp. (Consolidated) from three wells located on the Turner "A" Lease, Morris Creek, Kenawha County, W. Va. CES proposes to rework and recondition the operations on the three wells, and to build a new gathering line. CES states that unless the requested increase to $1.79 per Mcf is granted, abandonment is imminent. Any person desiring to be heard or to make any protest with reference to said petition should file a protest with the Commission in accordance with the Commission's rules. KENNETH F. PLUMB, Secretary.

[FR Doc. 77-35670 Filed 12-13-77; 8:45 am]

[6740-02] [Docket No. CP76-482 et al.]

[FR Doc. 77-35670 Filed 12-13-77; 8:45 am]

SOUTHERN UNION GAS CO., ET AL.

Order Consolidating Proceedings, Prescribing Hearing, and Granting Petitions To Intervene

DECEMBER 6, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The "savings provisions" of section 706(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 706(a) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR 4, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On August 12, 1977, Western Gas Interstate Co. (WGI) filed in Docket No. CP77-565 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Cities Service Gas Co. (Cities Service), the continued use and operation of certain natural gas facilities to be used in connection with the exchange, and the sale of the gas so exchanged to Southern Union Gas Co. (Southern Union). On August 15, 1977, Cities Service filed in Docket No. G-18545 a related petition to amend an order of the Federal Power Commission issued March 7, 1960, which authorized Cities Service to sell and exchange volumes of gas to and with WGI pursuant to the terms of a gas purchase contract dated November 14, 1949, as modified by an exchange agreement dated July 11, 1951, and an amendment dated October 24, 1955, between Cities Service and Southwestern Public Service Co., WGI's predecessor in interest. In its petition, Cities Service requests authorization pursuant to section 7 of the Natural Gas Act for additional exchange arrangements with WGI and the abandonment of a sale of natural gas to WGI.

Pursuant to the 1949 gas purchase contract, Cities Service purchases volumes of gas from the Getty Oil Co.'s (Getty) Jones A No. 1 and B No. 1 wells in Texas County, Okla., and resells those volumes to WGI at rates based on the price paid by Cities Service to Getty. In the instant petition, Cities Service requests permission and approval to abandon the sale of the Getty gas to WGI and states that on March 18, 1977, it notified WGI that it was terminating this sale after May 22, 1977, but that it was willing to continue the sale on a month to month basis pending negotiations between Cities Service and WGI regarding execution of a new exchange agreement.

Pursuant to the terms of the 1951 exchange agreement, WGI delivered the gas which it purchased from the Fanning No. 1 well in Texas County, Okla., to Cities Service at the wellhead, and Cities Service redelivered equivalent volumes to WGI at a point of interconnection in Section 3, Township 1 North, Range 12 ECM, Texas County, Okla. It is stated that a substantial deficit exchange balance is due WGI by Cities Service due to intermittent redeliveries to WGI during the above-mentioned period of interconnection.

Cities Service and WGI purportedly have entered into a new exchange agreement dated June 8, 1977, to correct the imbalance of gas owed to WGI under the 1951 agreement and to prevent an increase in the deficit exchange balance. The new agreement would terminate the prior sale and exchange agreement, but would preserve the deficit balance owed by Cities Service to WGI under the prior arrangement. Pursuant to the terms of the new agreement, WGI would deliver volumes of gas which it purchases from the Fanning No. 1 well in Texas County, Okla., to Cities Service for the account of WGI at the wellhead and would deliver additional volumes to Cities Service for the account of WGI at the existing North Guymon Exchange Point located near the northeast corner of Section 36, Township 4 North, Range 14 ECM, Texas County, Okla. In exchange, Cities Service would deliver volumes of gas to WGI for the account of Cities Service at the following existing points of interconnection between the transmission facilities of Cities Service and WGI:

1. The Adams delivery point located in the Northwest Quarter of Section 30, Township 5 North, Range 19 ECM, Texas County, Okla.
2. The West Guymon exchange point located in the Northeast Quarter of Section 4, Township 2 North, Range 14 ECM; and,
3. The Jones A & B exchange point located in Section 3, Township 1 North, Range 12 ECM.

The volumes of gas delivered by Cities Service to WGI under the new exchange agreement would exceed the volumes delivered by WGI to Cities Service until the existing exchange imbalance between Cities Service and WGI is reduced to an amount equal to the volumes Cities Service receives each month from WGI. Total daily deliveries by Cities Service to WGI in any event would not exceed 1,500 Mcf. It is stated that no new facilities would be necessary to effectuate the proposed exchange arrangements as all receipts and deliveries would be made through existing points of interconnection.

In Docket No. CP77-565, WGI further requests authorization to sell all gas received from Cities Service under the foregoing exchange arrangements to Southern Union, a gas distributing company. It is noted that the imbalance was reduced somewhat by an emergency exchange arrangement between WGI and southern utility companies for the period January 9, 1977, to March 9, 1977.

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The answers to some of the questions raised by the instant applications appear to be fundamental to the resolution of the proceeding in Docket Nos. CP76-462 et al. Cities Service's proposed abandonment of a sale of gas to WGI and set for hearing consolidated this proceeding in Docket Nos. CP76-462 et al. It would appear inappropriate to grant additional gas service to the East Line customers from one source and then in a separate proceeding permit the abandonment of service to the East Line customers from another source. Similarly, the determination of whether permanent authorization of the Adams tap—should be granted should not be considered in separate proceedings.

The clearly preferable route of action is to consolidate the instant application with the on-going proceeding in Docket Nos. CP76-462 et al., for a single evidentiary hearing. We note that all the parties to the instant proceedings are also parties to the proceeding in Docket Nos. CP76-462 et al., and so will not be disadvantaged by the record that has already been developed in Docket No. CP76-462 et al.

We expect that the consolidation of the instant applications with the on-going proceeding in Docket No. CP76-462 et al., will require the resolution of inter alia, the following issues:

(1) The effect the proposed abandonment would have on the gas supply position of WGI and its affiliated gas distributing company, Southern Union.

(2) The extent, if any, to which the delivery of additional exchange volumes by Cities Service to WGI at the Adams tap would improve the gas supply position in that portion of WGI's pipeline system.

(3) Whether continued use of the Adams tap and related facilities should be permitted in view of the proposed exchange arrangements.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented in these proceedings.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that these proceedings be consolidated with the proceedings in Docket No. CP76-462 et al. for purposes of hearing and disposition.

(3) Participation by the petitioners to intervene in these proceedings may be in the public interest.

The Commission orders: (A) The application filed in Docket No. CP77-565 by Western Gas Interstate Company and the petition to amend filed in Docket No. G-18545 by Cities Service Gas Company are hereby consolidated and set for hearing and disposition with Southern Union Gas Company et al. Docket No. CP76-462 et al.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure (18 CFR, Part 1), and the Regulations under the Natural Gas Act (18 CFR, Chapter 1, Subchapter E), a prehearing conference shall be held December 20, 1977, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, concerning the matters involved in and the issues presented by these consolidated proceedings.

(C) The Administrative Law Judge previously designated to preside over the proceedings in Docket No. CP76-462 et al., shall preside at the hearing in these consolidated proceedings, with authority to establish and change all procedural dates and to rule on all motions with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Commission's Rules of Practice and Procedure.

(D) The petitioners for leave to intervene are permitted to intervene in the instant consolidated proceedings subject to the Rules and Regulations of the Commission; Provided, however, that the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their respective petitions to intervene; and, Provided, further, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in these proceedings.

By the Commission.

[6740-02]

[FR Doc. 77-35667 Filed 12-13-77; 8:45 am]

TEXAS EASTERN TRANSMISSION CORP.

Application

DECEMBER 2, 1977.

Take notice that on November 15, 1977, Texas Eastern Transmission Corp. (Applicant), P.O. Box 2521, Houston, Tex. 77001, filed in Docket No. CP78-86 an application pursuant to section 7(a) of the Natural Gas Act and section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public
convenience and necessity authorizing the transportation of up to 300 Dekatherms (dths) equivalent of natural gas per day for 2 years for Owens/Corning Fiberglass Corp. (Owens/Corning) pursuant to a transportation service agreement between Applicant and Transcontinental Gas Pipe Line Corp. (Transco), receiving gas in accordance with a firm contract with Penn Fuel Gas, Inc. (Penn Fuel), a direct resale customer of Applicant, all as more fully set forth in the application, less 3 on file with the Commission and open to public inspection.

Applicant proposes to transport gas for Owens/Corning pursuant to a service agreement dated October 11, 1977, between the two parties and pursuant to Applicant's TS Rate Schedule, FERC Gas Tariff, Fourth Revised Volume No. 1. It is stated that Owens/Corning has contracted to purchase natural gas from Kilroy Properties Inc, Edwin L. Cox and Southland Royalty Co. (Sellers) from two wells located in LaFourche Parish, La. It is further stated that Owens/Corning would pay Sellers $2.00 for each one million Btu's delivered hereunder commencing on the date of initial delivery and continuing for an initial term of 12 months, and that at the end of the 12-month term the price would be increased 15.0 cents and would be increased 15.0 cents each 12-months thereafter. It is indicated that the subject gas is not available for resale to the interstate market. Owens/Corning would use the subject gas for high priority 2 uses at its plant located in Huntingdon, Pennsylvania, it is indicated.

Applicant proposes to receive up to a maximum of 300 dths of natural gas per day for Owens/Corning's account from an existing point of interconnection of Applicant's and Transcontinental Gas Pipeline Corp.'s facilities near St. Francisville, La. and other mutually agreeable points of interconnection and transmission for a period ending June 30, 1978, for Alcoa's fabricating facility at Lebanon, Ohio, for ultimate delivery to Alcoa'sBadin, N.C., plant. It is indicated that the subject gas would be delivered by Mich-Wisc to Panhandle Eastern Pipe Line Co. (Panhandle) for ultimate delivery to Rea's manufacturing facility at Lafayette, Ind. The application states that Alcoa would pay a price of $2.05 for each Mcf delivered hereunder to Rea's manufacturing facility. The application states that Alcoa would cause Par to deliver to Applicant, it is said. It is indicated that the estimated cost of the proposed modification is $7,200, which cost would subsequently be reimbursed by Alcoa.

Applicant states that it would receive volumes of natural gas from Par, which Alcoa causes to be delivered to it, at an existing meter station at or near the site of Block Valve No.1, on Applicant's Texas State Pipeline in Claiborne Parish, Louisiana, and that it would simultaneously deliver volumes of natural gas for Alcoa's account as follows:

A. Up to 541 Mcf per day to Transcontinental Gas Pipe Line Corp. (Transco) at an existing point of interconnection located near Mamou, Evangeline Parish, La. For ultimate delivery to Alcoa's Badin, N.C., plant.

B. Up to 541 Mcf per day to Transco at an existing point of interconnection located in Webster County, Ks., which volumes would be delivered by Mich-Wise to Panhandle Eastern Pipe Line Co. (Panhandle) for ultimate delivery to Rea's manufacturing facility at Lafayette, Ind.

C. Up to 719 Mcf per day to Columbia Gas Transmission Corp. (Columbia) at an existing point of interconnection located near Lebanon, Ohio, for ultimate delivery to Alcoa's fabricating facility at Lebanon, Pa., and Rea's magnet wire manufacturing facility at Buena Vista, Va. It is indicated that the subject gas would be used at the aforementioned locations for Priority 2 uses.

Applicant Indicates that it is presently transporting and delivering volumes of natural gas for the account of Alcoa, pursuant to authorization granted in Docket No. CP76-267, and that these volumes are received by Applicant from Alcoa's producer-supplier, Par, at an existing 4-inch meter run station in Claiborne Parish, La., which Applicant was authorized to construct and installed in September 1977, and which is the proposed point of receipt in the instant docket. Applicant further indicates that in order to effectuate the transportation service proposed herein, it would be necessary to modify the existing meter station by replacing the existing 4-inch meter run with a 6-inch meter run. Such modification is necessary in order to accommodate the additional volumes of natural gas which Alcoa would cause Par to deliver to Applicant, it is said. It is indicated that the estimated cost of the proposed modification is $7,200, which cost would subsequently be reimbursed by Alcoa.

Applicant states that it would charge Alcoa 4.67 cents for each Mcf delivered to Transco, 17.81 cents for each Mcf delivered to Mich-Wise, 11.36 cents for each Mcf delivered to Tennessee, and 20.06 cents for each Mcf delivered to Columbia. Applicant further states that it would retain as
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makeup for compressor fuel and line loss 5.27 percent of the volumes delivered to Mich-Wis, 1.58 percent of the volumes delivered to Tennessee, and 9.45 percent of the volumes delivered to Columbia.

Any person desiring to be heard or to make any protest with reference to said application should do so on or before December 21, 1977, file with the Federal Energy Regulatory 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 of which he is not 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 Energy Regulatory 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 motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, Secretary.

(FR. Doc. 77-55679 Filed 12-13-77; 8:45 am)

6740-02

[Docket No. CP78-403]

TEXAS GAS TRANSMISSION CORP.

Petition To Amend

DECEMBER 8, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and executive Order No. 12009, 42 FR 46287 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FERC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(11) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the Federal Power Commission entitled: "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR 453 provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on November 22, 1977, Texas Gas Transmission Corp. (petitioner), 3800 Frederica Street, Owensboro, Ky. 42301, filed a Docket, No. CP78-403 a petition to amend the order of August 13, 1976 (56 FPC ---), as amended February 7, 1977 (57 FPC ---) issued by the Federal Power Commission (FPC) in the instant proceeding. Petitioner states that the volumes related to this proceeding were specifically transferred to the FERC by section 402(a)(11) of the DOE Act.

The petition states that the natural gas which petitioner transports and delivers under existing authorization for the account of Owens-Corning is produced from certain leasehold interests presently owned or controlled by Kilroy Properties, Inc. (Kilroy), and Dawson Exploration, Inc., in Jefferson Davis Parish, La. Petitioner indicates that it has been advised that because of declining production from this source, Owens-Corning has entered into an agreement with Kilroy, Edwin L. Cox, and Southland Realty Co. (sellers) for the purchase of volumes of natural gas from the A-2 Wells, Southwest Paradise Field, Lafourche Parish, La. It is stated that Owens-Corning would pay sellers $2 for each one million Btu's delivered hereunder commencing on the date of the agreement for a term of 12 months, and at the end of the 12-month term the price would be increased 15 cents and would be increased 15 cents each 12-months thereafter.

By this petition, petitioner seeks authorization to add an additional point of receipt, so as to permit it to receive volumes of natural gas produced from the A-1 and A-2 Wells from Tranco at an existing point of exchange located near Mamou, Evangeline Parish, La., or at other mutually agreeable points of exchange between petitioner and Tranco, and transport and deliver an equivalent volume to Jackson, Tenn. (Jackson), and Transco, and transport and deliver an equivalent volume to Transco. Petitioner states that the volumes received from Tranco at the proposed additional point of receipt would fall within the 2,000 Mcf per day delivery limitation presently authorized in the captioned docket.

It is indicated that Owens-Corning would pay petitioner 13.93 cents for each Mcf received from Tranco at the proposed point of receipt, to Jackson for Owens-Corning's account, and petitioner would retain 3.15 percent of the volume delivered to Jackson as makeup for compressor fuel and line loss.

Any person desiring to be heard or to make a protest with reference to said petition to amend should on or before December 21, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20428, a petition to intervene, and file 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

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KENNETH F. PLUMS, Secretary.

[FR Doc. 77-35680 Filed 12-13-77; 8:45 am]

[6740-02]

(Docket No. ID-1529)

JOHN TILLINGHAST
Supplemental Application Pursuant to Section 305(b) of the Federal Power Act

DECEMBER 8, 1977.

Take notice that John Tillinghast on October 31, 1977, tendered for filing a supplemental application pursuant to section 305(b) of the Federal Power Act for authorization to hold the position of Director with the Indiana & Michigan Electric Co. The applicant indicates that he was elected to the position on September 22, 1977, to be effective on October 1, 1977. The Applicant indicates that he presently holds the following positions:

Name of corporation and position
American Electric Power Service Corp., Director, Vice President of the Board—Engineering and Construction.
Appalachian Power Co., Director, Vice President.
Cardinal Operating Co., Director.
Castelette Coal Co., Director, Vice President.
Central Appalachian Coal Co., Director.
Central Ohio Coal Co., Director.
Franklin Real Estate Co., Director, Vice President.
Indiana & Michigan Electric Co., Vice President, Director, Vice President.
Indiana Franklin Realty, Inc., Vice President.
Kanawha Valley Power Co., Director.
Kentucky Power Co., Director, Vice President.
Kingsport Power Co., Director, Vice President.
Michigan Power Co., Director, Vice President.
Ohio Electric Co., Director, Vice President.
Twin Branch Railroad Co., Director.
West Virginia Power Co., Director.
Wheeling Electric Co., Director, Vice President.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by the Commission on its own motion or 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. If 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.

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KENNETH F. PLUMS, Secretary.

[FR Doc. 77-35681 Filed 12-13-77; 8:45 am]

[6740-02]

(Docket No. RP77-114)

WESTERN TRANSMISSION CO.
Rate Settlement Proposal

DECEMBER 8, 1977.

Public notice is hereby given that on November 21, 1977, Western Transmission Co. (Western) filed a settlement

transmission cost of service in effect in applicant's northern rate zone, less any amount included in such average jurisdictional cost of service which is attributable to gas consumed in the operation of applicant's pipeline system. The current average northern rate zone jurisdictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operation, is 30.04 cents per Mcf, it is said.

Any person desiring to be heard or to make any protest with reference to said application shall be heard on or before December 23, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with 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.

Applicant requests authorization to transport a maximum daily quantity (MDQ) of up to 10,000 Mcf of natural gas per day for Southern Natural Gas Co. (Southern), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Southern has been purchased by Southern from Atlantic Richfield Co.'s (ARCO) production of up to 10,000 Mcf of natural gas per day for Southern Natural Gas Co. (Southern), all as more fully set forth in the application 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 Energy Regulatory 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.
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[FR Doc. 77-35682 Filed 12-13-77; 8:45 am]

FEDERAL ENERGY REGULATORY COMMISSION

[7CP77-601]

NATURAL GAS PIPELINE CO. OF AMERICA

Amendment to Application

DECEMBER 2, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC), which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

Take notice that on November 16, 1977, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP77-601 an amendment to its application filed with the Federal Power Commission (FPC), in the instant docket pursuant to section 7(c) of the National Gas Act so as to provide for the installation and operation of an additional 7250 horsepower of compression at compressor station No. 343. Applicant asserts that that additional horsepower of compression would be used in its continuing efforts to promote efficiency on its system and to conserve energy; that the additional horsepower would also permit it to transport an additional 5,830 Mcf of gas per day which would increase the capacity of Applicant's Louisiana Line from 1,480,381 Mcf to 1,486,211 Mcf per day; and that the additional horsepower would also enhance the reliability of operations during off peak periods.

Any person desiring to be heard or to make any protest with reference to said amendment should, on or before December 23, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20526, 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. All people who have here­tofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-35504 Filed 12-13-77; 8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
The proposed notice requirements under section 3 of the Federal Power Act to accept for filing NSP-Minn.'s transformation agreements, agreement supplement, and the proposed transformation and load pattern power rates for the customers designated above and to make them effective without refund, all as hereinafter ordered.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act to accept for filing NSP-Minn.'s transmission rates for the customers designated above and to suspend them until March 21, 1978, subject to refund, and to make these rates subject to the outcome of the proceeding in Docket No. ER77-528, all as hereinafter ordered.

The Commission orders: (A) The tendered filings described in appendix B to this order as "load pattern power" and "transformation" rates schedules and supplements thereto, are hereby accepted for filing and permitted to become effective without suspension as of October 21, 1977, with the implied request for waiver of our notice requirements hereby granted. (B) The remaining tendered filings described as "transmission" service in appendix B are hereby accepted for filing, suspended and the use thereof deferred until March 21, 1978, when they shall become effective subject to refund.

(C) The suspended schedules set forth in paragraph (B) above are hereby made subject to the outcome of our proceedings in Northern States Power Co. of Minnesota, Docket No. ER77-528.

(D) The Secretary shall cause prompt publication of this order in the

FEDERAL REGISTER.

By the Commission.

LOIS D. CASHEL, Acting Secretary.

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<td>ER77-594</td>
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<td>ER77-626</td>
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<td>ER77-634</td>
<td>St. James</td>
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* The Cities are located in Illinois with the exceptions of Sioux Falls and St. James, which are located in South Dakota.

* Because of a filing deficiency, the cited dockets except for the filing for the City of St. James were accepted for filing on November 3, 1977. The filing date for the City of St. James is the date of the tender, October 21, 1977, since it was not deemed deficient.

ATTACHMENT B

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* Subject to refund.

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Subject to refund.
ATTACHMENT B—Continued

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<td>(19) Supp. No. 1 to Rate Sch. FERC No. Load Pattern Power</td>
<td>Not available</td>
<td>Supp. No. 1 to Rate Sch. 3/21/77.</td>
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<td>(20) Supp. No. 2 to Rate Sch. FERC No. Transmission</td>
<td>do</td>
<td>10/21/77.</td>
<td></td>
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<tr>
<td>(21) Supp. No. 3 to Rate Sch. FERC No. Transmission</td>
<td>do</td>
<td>10/21/77.</td>
<td></td>
</tr>
<tr>
<td>(22) Supp. No. 4 to Rate Sch. FERC No. Transmission</td>
<td>do</td>
<td>10/21/77.</td>
<td></td>
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<td>(23) Supp. No. 2 to Rate Sch. FPC No. 312 Contract Supplement to</td>
<td>do</td>
<td>10/21/77.</td>
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<td>(24) Supp. No. 3 to Rate Sch. FFC No. 312 Load Pattern Power</td>
<td>do</td>
<td>10/21/77.</td>
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<td>(25) Supp. No. 4 to Rate Sch. FPC No. 312 Transmission</td>
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<td>10/21/77.</td>
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<td>(26) Supp. No. 5 to Rate Sch. FPC No. 312 Transmission</td>
<td>Supp. No. 1 to Rate Sch. 3/21/77.</td>
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</table>

Subject to refund.

[FR Doc. 77-35499 Filed 12-13-77; 8:45 am]

[6740-02]


APPLICATIONS FOR CERTIFICATES, ABANDONMENTS OF SERVICE AND PETITIONS TO AMEND CERTIFICATES.¹

DECEMBER 6, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 30, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.10 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB, Secretary.

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977

¹This notice does not provide for consolidation for hearing of the seven matters covered herein.

Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.10 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB, Secretary.

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977

¹This notice does not provide for consolidation for hearing of the seven matters covered herein.
<table>
<thead>
<tr>
<th>Docket No. and date filed</th>
<th>Applicant</th>
<th>Purchaser and Location</th>
<th>Price Per 1,000 ft³</th>
<th>Pressure Base</th>
</tr>
</thead>
<tbody>
<tr>
<td>C178-166 A 11/18/77</td>
<td>Marathon Oil Co., 539 South Main Street, Findlay, Ohio 45840.</td>
<td>Arkansas Louisiana Gas Co., certain acreage in the southeast Center City area, Custer County, Wyo.</td>
<td>$1.43</td>
<td>14.65</td>
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<tr>
<td>C178-167 A 11/18/77</td>
<td>Ensmcher Exploration, Inc. 1025 Connecticut Avenue NW., suite 1306, Washington, D.C. 20036.</td>
<td>Natural Gas Pipeline Co. of America, wells OCS-G-2751 &quot;A&quot; No. 1, 4, 10, 12, 13, 16, and OCS-G-4344 &quot;A&quot; No. 2, 3, 5, 6, 7, 8, 9, 11, 14, 15 in blocks A-369 and A-370, High Island area, east addition, south extension, offshore, Texas</td>
<td>(*)</td>
<td>14.65</td>
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<tr>
<td>C178-168 A 11/9/77</td>
<td>Caroline Hunt Trust Montana-Dakota Utilities Estate, 2500 First National Bank Building, Dallas, Tex. 75202.</td>
<td>Northern Natural Gas Co., P.O. Box 2159, Dallas, Tex. 75221.</td>
<td>(**)</td>
<td>14.65</td>
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<tr>
<td>C178-169 A 11/17/77</td>
<td>American Petroleum Co. of Texas, P.O. Box 2189, Dallas, Tex. 75221.</td>
<td>Arkansas Louisiana Gas Co., certain acreage in the North Cooper field, Blaine County, Okla.</td>
<td>(**)</td>
<td>14.65</td>
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<td>C178-173 A 11/21/77</td>
<td>Union Oil Co. of California, Union Oil Center, room 901, P.O. Box 7600, Los Angeles, Calif. 90651.</td>
<td>Northern Natural Gas Co., Rock Lake Morrow Field, Lea County, N. Mex.,</td>
<td>(**)</td>
<td>14.65</td>
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<td>C178-175 A 11/23/77</td>
<td>Ashland Exploration, Inc. (successor in interest to Ashland Oil, Inc.).</td>
<td>Kansas-Nebraska Natural Gas Co., Inc., McMillen No. 1 well located in Section 22-T13D-R11W., Cheyenne County, Neb.</td>
<td>(**)</td>
<td>15.025</td>
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<table>
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<tr>
<th>Docket No. and date filed</th>
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<th>Pressure Base</th>
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</thead>
<tbody>
<tr>
<td>A 11/25/77</td>
<td>Texaco Inc., P.O. Box 2100, Denver, Colo. 80201.</td>
<td>Colorado Interstate Gas Co.,</td>
<td>Delaney Rim Area, Sweetwater County, Wyo.</td>
<td>(**)</td>
</tr>
</tbody>
</table>

Filing code:

Applicant assigned to Duer Wagner & Co., its interest in certain acreage in Hidalgo County, Tex., insofar as the lessee assigned cover the leasehold estates to the lands that lie within the Young Gas Unit No. 1 down to and including a depth of 3,245 feet below the surface of the ground.

Applicant intends to discontinue processing operations at Hobbs Plant and the gas currently processed there will be consolidated with gas to be processed at Eunice Plant, both located in Lea County, N. Mex.

Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, and as amended and Opinion No. 749.

Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended by Opinion No. 749.

Applicant is filing under Gas Purchase Contract dated June 9, 1977.

Applicant is filing under Gas Purchase Contract dated November 16, 1982.

Applicant is filing under Gas Purchase Contract dated December 30, 1980.

Applicant is filing under Exchange Agreement dated October 19, 1977.
tested the increase, and by order issued December 6, 1974, in Docket Nos. E-7700, et al. the Federal Power Commission directed that no change could be made in the contract demand minimums to Hudson except as mutually agreed upon by the parties.

The 115 kV interconnection was not completed by December 1976, as planned. Hudson and NEP therefore negotiated the letter agreement of January 13, 1977, tendered for filing herein, to provide for interim 13 kV service until May 1, 1977, when the 115 kV interconnection was in fact energized. NEP also tendered an unexecuted amendment of service agreement dated January 20, 1977, to provide for a reduction in minimum demands during the interim period (January 1-April 30, 1977). NEP further included as a supplement to this service an executed agreement dated December 10, 1974, providing for a new entitlement for Hudson in the nuclear Pilgrim Unit No. 1. Finally, NEP tendered for filing a letter of cancellation of primary service for resale to Hudson and a power contract dated May 1, 1977, to substitute the purchase of system power unreserved for primary service.

The proposed charges for system power unreserved are identical to those specified for such service in NEPCO's proposed electrical tariff, Vol. No. 2, submitted for filing and set for hearing under section 206 of the Federal Power Act in Docket No. ER77-584, except for the subtransmission charge, which is not applicable to the customers to be provided with system power unreserved under the tariff. NEP states that the power contract has not been signed by Hudson because of a billing dispute regarding the applicability of the proposed subtransmission charge.

NEP requests waiver of the notice requirements in section 35.3 of the Commission's regulations to make the letter agreements and amendments to the service agreement effective as of January 1, 1977 (to coincide with the commencement of the interim service); to make the notice of cancellation of primary service and the system power unreserved contract effective May 1, 1977, (at the conclusion of the interim service); and the Pilgrim Unit No. 1, entitlement to be effective December 1, 1974, in accordance with the terms of that agreement. In support of its request for waiver, NEP agrees to make any collections of revenues from the filings subject to refund pending a final Commission order.

System power unreserved is defined as electric power supplied by NEPCO without specification as to the source of generation, without reservation subject to the availability of specified generating units on the NEPCO system.

Public notice of the filing was issued on November 10, 1977, with responses due on or before November 21, 1977. On November 22, 1977, Hudson filed a protest and petition to intervene stating that it should not be required to pay the subtransmission T-1 rate and requesting a conference between staff and the parties to resolve the matter.

Upon review we find that good cause exists to accept for filing and to waive the section 35.3 requirements to make effective as requested the letter agreement on January 13, 1977; the unexecuted amendment of service agreement dated January 20, 1977, the revisions to the primary service agreement and the notice of cancellation of primary service for resale dated October 28, 1977.

Our review further indicates that the proposed contract for system power unreserved has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. The Commission shall therefore suspend the proposed contract for 1 day to become effective May 2, 1977, subject to refund, and set for investigation the question of the proposed subtransmission charge. We shall further order the rate level herein to be subject to the outcome of the section 206 investigation in Docket No. ER77-584.

The Commission finds: (1) Good cause exists to accept for filing NEP's letter agreement of January 13, 1977, the amendments to the service agreement, and the notice of cancellation of primary service, and to grant waiver of the Commission's notice requirements to make the above filings effective as requested.

(2) Good cause exists to accept for filing NEP's proposed power contract for the sale and purchase of system power unreserved to Hudson, and to suspend the contract for one day, to become effective May 2, 1977, subject to refund pending the outcome of a hearing and decision on the issue of the subtransmission charge, and subject to the determination of charges in Docket No. ER77-584.

(3) Participation by Hudson in this proceeding may be in the public interest.

The Commission orders: (A) NEP's proposed letter agreement dated January 13, 1977, the amendments to the service agreement, and the notice of cancellation of primary service tendered for filing on November 3, 1977, and identified in the appendix attached hereto are hereby accepted for filing, and waiver of the Commission's notice requirements is granted to make them effective as requested.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by
section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206, and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the subtransmission charge component of the power contract for system power unreserved proposed by NEP in this proceeding. 

(C) Pending such hearing and decision thereon, the proposed power contract for system power unreserved filed by NEP on November 3, 1977 and identified in the appendix attached hereto is hereby accepted for filing, suspended for one day to become effective May 2, 1977, subject to refund. 

(D) 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(d)), shall convene a prehearing conference in this proceeding in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The issues in the proceeding shall be limited to the lawfulness of NEP's filing as it relates to the subtransmission charge. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the rules of practice and procedure.

(E) The lawfulness of NEP's charges for system power unreserved which is the subject of litigation in Docket No. ER77-584 is made subject to the outcome of that litigation. 

(F) The Town of Hudson is hereby permitted to intervene late in this proceeding subject to the Rules and Regulations of the Commission: Provided, however, That participation of Hudson shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and, provided, further, That the admission of Hudson shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding. 

(G) Nothing contained herein shall be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or making of settlement pursuant to section 1.18 of the Commission's rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commissioner. 

Lois D. Cashell, Acting Secretary.
NOTICES

(1) EQN-1277-026, "Sodium Arsenite Method for the Determination of Nitrogen Dioxide in the Atmosphere."


(3) EQN-1277-028, "TGS-ANSA Method for the Determination of Nitrogen Dioxide in the Atmosphere."

All three methods are applicable to 24-hour integrated measurements of NO₂ in ambient air. Collected samples are transferred from the sampling site to a laboratory for analysis. The first two methods are very similar, and have identical sampling procedures. In the second method, an automated analysis procedure replaces the manual analysis procedure specified in the first method.

With both sodium arsenite methods, nitric oxide is a positive interferent and carbon dioxide is a negative interferent. Because these interferents exhibit compensating effects, the resulting error is small for most monitoring situations and does not necessitate applying a correction to NO₂ measurements obtained with the method. However, use of these arsenite methods may introduce significant variations in the concentration of these potential interferents (such as near roadways or other high traffic density locations) is recommended.

Each of these methods was tested, and information was compiled, by EPA under § 53.7 of 40 CFR Part 53 (40 FR 7049, 41 FR 52694). The pertinent information will be kept on file by Department E at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As designated equivalent methods, each of these methods is acceptable for use by States and other control agencies for purposes of § 51.17a of 40 CFR Part 51—Requirements for Preparation, Adoption, and Submittal of Implementation Plans (40 FR 22309, as amended December 1, 1976 (41 FR 52692)). For these purposes, measurements made by any of these methods must be carried out in strict accordance with the procedures and specifications provided in the complete and detailed method description. However, users of any of these methods should be aware that promulgation of a short term (1 to 3 hour) standard for NO₂ is likely under the 1977 amendments to the Clean Air Act, and that the measurement of these 24-hour methods would be applicable to such a short term standard.

Copies of the method description for each of these methods, or further information, may be obtained from any of the EPA Regional Offices or from the Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Manual methods such as these are often used in a network of sampling sites associated with a "central" analytical laboratory. Such network operation may entail a number of different field technicians and laboratory analysts, a variety of sampling and analysis equipment, and various modes of transporting or shipping samples to the laboratory. It is EPA's observation that under such conditions, the accuracy and precision of the method may be degraded. Because these interferents exist in air samples, the quality assurance procedures not provided in the method descriptions to insure accurate measurements under routine network operating conditions. Further information regarding quality assurance can be found in EPA publication number EPA-600/9-76-005, "Quality Assurance Handbook for Air Pollution Measurement Systems."

Agencies desiring to use one of these methods in a network operation must develop and use additional quality assurance procedures not provided in the method descriptions to ensure accurate measurements under routine network operating 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 Street SW., room E-318, Washington, D.C. 20460.

According to the Applicant, about 500,000 tons of sugar beets are awaiting processing by the Utah and Idaho Sugar Co.; of this amount, about 250,000 tons could become infected with various fungi such as Penicillium, Botrytis, Phoma, and others. These fungi cause deterioration while the beets are in storage, resulting in a decline of the sugar content of the beets. These fungal diseases occur naturally in sugar beets; however, only these beets to be stored for more than 75 days could be seriously affected. The problem was increased by use of ventilated canopy storage. This was needed to prevent the stored beets from freezing and then thawing, which renders them unfit for processing.

There are no registered alternative pesticides that can be applied as a
post-harvest treatment to control fungal deterioration in sugar beets. The logistics and economics of the preharvest equipment made immediate processing of the beets undesirable.

The Applicant proposed to use Mer- tect 340-F, EPA Reg. No. 618-75-AA; this product is already registered for preharvest field use on sugar beets to control Cercospora Leaf Spot. The rate of application is 42 ounces Mer- tect 340-F added to 100 gallons of water; one (1) gallon of this suspension will be applied to one (1) ton of sugar beets. The maximum amount of the product that could be used would be 855 gallons on 250,000 tons of sugar beets. Applications will be made by employees of the Utah and Idaho Sugar Co., and the Amalgamated Sugar Co.; the estimated loss of value without this treatment ranged from $2 to $3 per ton, or up to $500,000 for 250,000 tons of stored beets.

Permanent pesticide tolerances of 0.25 ppm on sugar beets, 10 ppm on sugar beet tops, and 0.1 ppm in milk and meat have been established (40 CFR 150.924). Based on an existing registered product for field application of thiabendazole to sugar beets, no serious adverse effects on the environment are expected. The requested use will be only on the specific amount of thiabendazole to the human diet.

It should be noted that an experimental use permit under the section 5 regulations of the amended FIFRA was issued in 1975 for the use of Mer- tect 340-F on sugar beets in North Dakota and Washington. Quarterly reports regarding that permit indicated that the product was efficacious for that use.

After reviewing the application and other available information, EPA determined that (a) a pest outbreak of various fungi has or is about to occur; (b) there is no pesticide presently registered or available for use to control the fungi on stored sugar beets; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic losses may result if the various fungi 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 granted a specific exemption to use the pesticide noted above until November 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The thiabendazole product Mer- tect 340-F, EPA Reg. No. 618-75-AA, will be used;
2. The rate of application will not exceed 855 ounces of the product in 100 gallons of water per 100 tons of sugar beets;
3. A maximum of 250,000 tons of sugar beets may be treated;
4. A maximum of 250,000 tons of sugar beets may be treated;
5. All applications will be made by employees of the Utah and Idaho Sugar Co., and the Amalgamated Sugar Co.;
6. The Applicant is responsible for ensuring that all the provisions of this specific exemption are met, and must submit a report to EPA summarizing the results of this program by September 1978;
7. All applicable directions, restrictions, and precautions on the EPA-reg- istered label must be followed;
8. The EPA shall be immediately in­formed of any adverse effects resulting from use of thiabendazole in connection with this exemption; and
9. Thiabendazole residue levels not exceeding six (6) ppm in or on sugar beets, fifty (50) ppm for sugar beet pulp, and forty (40) ppm for sugar beet molasses have been determined to be adequate to protect the public health. A residue level of 40 ppm for sugar beet molasses has resulted in significant residues in poultry or eggs. The Food and Drug Administration of the U.S. Department of Health, Edu­cation, and Welfare has been advised of this action.

Sec. 13, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.)


EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 77-35693 Filed 12-13-77; 8:45 am]

[6560-01]

[FRL 828-8; OPP-50352]

PENNWTAL CORP.

Issuance of Experimental Use Permit

The Environmental Protection Agency (EPA), has issued an experimental use permit to the following applicant. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 4581-EUP-27, Pennwalt Corp., King of Prussia, Pa., 19406. This experimental use permit allows the use of 59 pounds of the herbicide 3,4-dichlorothiazole-5-car­ boxylic acid potassium salt on cotton plants to evaluate its use as a defoliant. A total of 528 acres is involved; the program is autho­ rized only in the States of Arizona, California, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas. The experimen­ tal use permit is effective from November 18, 1977, to November 18, 1978. This permit is being issued for the use of this product on cotton grown for seed use only.

Interested parties wishing to review the experimental use permit are re­ferred to Room E-315, Registration Division (WH-587), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggest­ ed that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appro­ priate permit may be made conve­niently available for review purposes.

This file will be available for inspec­tion from 8:30 a.m. to 4 p.m., Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.))

Dated: December 1, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 77-35691 Filed 12-13-77; 8:45 am]

[6560-01]

[FRL 830-1; OPP-31011A]

RECEIPT OF APPLICATIONS TO REGISTER PES­ TICIDE PRODUCTS ENTAILING CHANGED USE PATTERNS; CORRECTION

In FR Doc. 77-21236, appearing at page 37847, in the issue of July 25, 1977, in the last paragraph, third line, the name "IRGAROL B1549" is cor­rected to read "IRGAROL B1547."

Dated: December 5, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 77-35692 Filed 12-13-77; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

STANDARD BROADCAST AND FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: December 5, 1977.


The following applications request authority to continue, on an interim basis, standard broadcast and FM broadcast service now provided by Station WOTW(AM) and WOTW-FM, respectively, in Nashua, N.H. The present authorizations for the operation of WOTW(AM) and WOTW-FM expire on January 15, 1978. The Commission will accept competing applica­tions for interim or regular operating authority, or both, which propose es­sentially the same facilities.

NEW, Nashua, N.H.: Robert L. Cohen and Dr. Michael A. Siegel. REQ: 900 kHz, 1 KW, Day.

NEW, Nashua, N.H.: Robert L. Cohen and Dr. Michael A. Siegel. REQ: 106.3 MHz, Channel No. 292A; ERP: 3kW; HAAT: 165 feet.

FEDERAL REGISTER, VOL. 42, NO. 240— WEDNESDAY, DECEMBER 14, 1977
Pursuant to the provisions of §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, applications filed in response to this invitation must be tendered no later than January 16, 1978. Applications for authority to operate one or both of these facilities on an interim basis must be accompanied by applications. Any party desiring to file a petition to deny against either or both of the Cohen-Siegel applications must comply with § 1.580(i) of the Commission’s rules governing the filing of such petitions.

For the Communications Commission.

WILLIAM J. TRICARICO, Secretary.

[FR Doc. 77-35863 Filed 12-13-77; 8:45 am]

[6715-01]

FEDERAL ELECTION COMMISSION
(Notice 1977-53)

CLEARINGHOUSE ON ELECTION ADMINISTRATION CLEARINGHOUSE ADVISORY COMMITTEE

Meeting

In accordance with provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) and Office of Management and Budget Circular A-63, as revised, the Federal Election Commission announces the following Advisory Panel meeting:


PROPOSED AGENDA: Discussion sessions addressing research priorities, topics, and projects in election administration including: Planning and management; registration; balloting; tabulation and records.

PURPOSE OF THE MEETING: The panel will review past Clearinghouse research efforts, discuss present problems in the administration of Federal elections and formulate recommendations to the Federal Election Commission Clearinghouse for its future research program.

The Advisory Panel meeting is open to the public depending on available space. Any member of the public may file a written statement with the Panel before, during, or after the meeting. To the extent that time permits, the Panel Chairman may allow public presentation or oral statements at the meeting.

NOTICES

All communications regarding this Advisory Panel should be addressed to Dr. Gary Greenhalgh, Clearinghouse on Election Administration, Federal Election Commission, 1325 K Street NW., Washington, D.C. 20465.

Dated: December 9, 1977.

THOMAS HARRIS, Chairman, Federal Election Commission.

[FR Doc. 77-35868 Filed 12-13-77; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION
(Docket No. 77-58)

TRAILER MARINE TRANSPORT CORP. (TMT), PROPOSED REVISED AND REDUCED TRAILER-LOAD RATES ON SYNTHETIC YARN FROM PUERTO RICO TO UNITED STATES ATLANTIC PORTS

Order of investigation

Trailer Marine Transport Corp. (TMT), provides tug and barge Ro/Ro service between Ports in Puerto Rico and Jacksonville and Miami, Fla. Currently, there is one published Trailer Load (TL) rate applicable to northbound shipments of synthetic yarn. The application of the rate is port-to-port and not restricted to any geographic locality. This rate is currently published as 47 cents per cubic foot, subject to a minimum quantity application of 1,650 cubic feet.

TMT proposes to eliminate the single TL rate application and replace it with six different TL rate levels. Two of the TL rate provisions would be local, applicable port-to-port as provided in the tariff. The present 47 cents per cubic foot rate has been retained but made subject to a lower minimum quantity application of 1,550 cubic feet, with application being restricted from the Puerto Rico Ports of Mayaguez and Ponce only, to Jacksonville or Miami, Fla. A new rate of 39 cents per cubic foot has been established applicable from San Juan, P.R. to Jacksonville or Miami, Fla. This rate is likewise subject to a minimum quantity of 1,550 cubic feet.

The remaining four TL rate provisions are restricted to cargo moving beyond the port. They are proportionate to minimum rates as permitted under the provisions of Rule 5(h) of Domestic Tariff Circular No. 3 (46 CFR 531.5(h)) and appear as follows:

Applicable on cargo destined to Greenville or Piedmont, S.C., with final port of discharge at Jacksonville, Fla., and only when movement is routed beyond Jacksonville, Fla., via a motor carrier.

From Mayaguez and Ponce, P.R., and subject to minimum quantity application of 40,000 pounds, 185 cents per 100 pounds; from San Juan, P.R., subject to minimum quantity application of 40,000, 148 cents per 100 pounds;

Applicable on cargo destined to Graham or Warsaw, N.C., with final port of discharge at Jacksonville, Fla., and only when movement is routed beyond Jacksonville, Fla., via a motor carrier.

From Mayaguez and Ponce, P.R., and subject to minimum quantity application of 40,000 pounds, 178 cents per 100 pounds.

Formal protests were received from the Puerto Rico Maritime Shipping Authority (PRMSA), and the South Carolina State Ports Authority (Ports Authority), requesting the Commission to suspend and investigate TMT’s proposed rates on synthetie yarn.

It is PRMSA’s position that the natural flow of this traffic is through the Port of Charleston and that the selective rate reductions will result in diversion of at least 90 to 95 percent of the traffic from Charleston to Jacksonville. PRMSA alleges that TMT’s rate-making practices will unlawfully divert traffic from Charleston to Jacksonville.

The Ports Authority concurs in the Protest filed by PRMSA and feels that TMT’s proposed change discriminates against the Port of Charleston and favors the Port of Jacksonville. The Protest represents that the reduction proposed by TMT could result in a substantial diversion of cargo from the Port of Charleston.

In its Reply, TMT has characterized PRMSA’s position as being that synthetic yarn is PRMSA’s “captive traffic.” It is TMT’s objective, through the filing of the protested rates, to offer the shipper an alternative routing at a competitive rate from origin to final destination.

TMT maintains that its pricing philosophy is to maintain competitive rate levels, establish rates on per 100 pound basis where possible, and maintain competitive rates on a through cost point-to-point basis. TMT feels that PRMSA is protesting the local rate reduction and the conversion from cube to weight basis for proportional rates, and, to this extent, TMT feels PRMSA’s Protest is without merit. In its Reply, TMT asks how it is going to be allowed to compete for cargo if it cannot maintain competitive rates on a through cost point-to-point basis. Finally, TMT argues that PRMSA’s Protest has made many errors and misrepresentations. For instance, TMT alleges that the inland rates shown in PRMSA’s Protest are erroneous.

There are a number of questions which are left unanswered by the Protest and the replies thereto. First, will the proposed changes unduly divert cargo from a competing port? Second, are the rates discriminatory and burdensome to local traffic? Third, unanswered differences in applicable inland rate levels exist between the PRMSA
Protest and the TMT Reply. In the absence of the factual resolution of these questions, we believe the rates should be placed under investigation.

Now, therefore, it is ordered, That, pursuant to the authority of sections 14 Fourth, 16 First, 18(a) and 22 of the Shipping Act, as amended, and section 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of the tariff matter set forth on Sixth Revised Page 168 of TMT Tariff FMC-F No. 2 for the purpose of making such findings as the facts and circumstances warrant.

It is further ordered, That Trailer Marine Transport Corp. be named respondent in this proceeding;

It is further ordered, That Puerto Rico Maritime Shipping Authority and South Carolina State Ports Authority be named petitioners in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, the hearing date shall be set no later than June 30, 1978.

The hearing shall include oral testimony and cross examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That (1) a copy of this Order be forthwith served upon the respondent and upon the Commission's Bureau of Hearing Counsel and published in the FEDERAL REGISTER, and (2) the respondent, petitioners, and Hearing Counsel be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies), having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72), with a copy to all parties to the proceeding.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 77-35648 Filed 12-13-77; 8:45 am]

NOTICES 62975

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Education
EMERGENCY SCHOOL AID ACT
Closing Date for Receipt of Applications for the Special Projects Program

Under the authority of section 706(a)(2) of the Emergency School Aid Act ("ESAA"; Title VII of Pub. L. 92-318, as amended (20 U.S.C. 1601-1619)), the commissioner invites applications for Special Projects assistance only from local educational agencies which adopted desegregation plans (or other plans described in section 706(a) of the statute) for initial implementation in the 1977-78 school year and which have not previously received ESAA assistance based on those plans.

The Commissioner finds that projects that meet needs arising from the implementation of the plans described above will make substantial progress toward achieving the purposes of the statute.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Closing date: February 14, 1978

A. Applications sent by mail: An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention 13.532B, Washington, D.C. 20202. Application Control Center: Applications must 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 unforeseen circumstances, 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 February 9, 1978 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt mailed by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. Hand-delivered applications: An application to be hand-delivered must be taken to the U.S. Office of Education, 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. Applications will not be accepted after 4 p.m. on the closing date.

C. Program information: It is anticipated that $3,000,000 will be awarded to support projects submitted in response to this notice. The award of funds is contingent upon the availability of Fiscal Year 1978 appropriations.

Information and application forms may be obtained from the Special Projects Branch, Equal Educational Opportunity Programs, Room 2017, 400 Maryland Avenue S.W., Washington, D.C. 20202.

D. Project periods: Grant awards made pursuant to this notice will be for projects beginning no earlier than February 1, 1978, and ending no later than June 30, 1978.

E. Reused/applications: As required by section 710(d)(2) of the Emergency School Aid Act (20 U.S.C. 1609(d)(2)), applications from local educational agencies which are not approved in whole or in part will be returned to applicants for modification and resubmission, within a reasonable period of time, at the applicants' option.

F. Applicable regulations: Grant awards made pursuant to this notice will be subject to the following regulations:

(1) Regulations relating generally to programs under the Emergency School Aid Act (45 CFR Part 185) and in particular 45 CFR 185.94 through 185.94-4, relating to Other Special Projects; and

(2) The Office of Education general provisions regulations (45 CFR Parts 100, 100a and appendices), except to the extent that those regulations are inconsistent with 45 CFR Part 185.

(20 U.S.C. 1601-1619)


(Earnest L. Boyer,
U.S. Commissioner of Education.

[FR Doc. 77-35649 Filed 12-13-77; 8:45 am]

INFORMATION AND DATA ACQUISITION ACTIVITY
Collection; Opportunity for Comments

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information...
and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the Federal Register is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendments which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their respective organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education, Bureau of the Office of Management and Budget. Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before January 13, 1978, and should be addressed to Administrator, National Center for Education Statistics, Attn.: Manager, Information Acquisition, Planning, and Utilization, room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.


MARIE D. ELDRIDGE, Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Right To Read Application and Financial Status and Performance Reporting System.
4. Legislative authority for this activity: "No agreement may be entered into under this part, unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require." (20 U.S.C. 1226c, Sec. 417(a)(1)(B)(C). Pub. L. 93-380.

"The Commissioner shall * * * (3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes." (20 U.S.C. 1226c, Sec. 417(a)(1)(B)(C). Pub. L. 93-380.

"Any request for collection shall contain information on progress being made * * * describe the cost and benefits of the applicable program * * * identify which sectors of the public the benefits of such programs * * * (20 U.S.C. 1226c)."
6. How information collection will be used: The data collected with this system will be used by the Right To Read program to determine grant eligibility and to report on activities conducted by grantees. This system will allow the Office of Education to evaluate the overall effectiveness of the program and provide Congress and other decision-makers with the necessary information.
7. Data acquisition plan: (a) Method of collection: Mail. (b) Time of collection: Application-spring. Reporting Forms-winter and late spring of each grant year. (c) Frequency: Application-annual. Reporting forms-annual.
8. Respondents: (a) Type: Local Educational Agencies. (b) Number: 1,000. (c) Average man-hours per respondent: Application-32, Reporting forms-8.
9. Information to be collected: For managerial purposes, (a) the financial and unobligated funds; and (b) the performance report for the Library Training Program will be used to verify adherence to the approved plan of operation.
10. Data acquisition plan: (a) Method of collection: Mail. (b) Time of collection: Fall. (c) Frequency: Annually.
11. Respondent(s): (a) Type: Institutions of higher education. (b) Number: 3,000.
12. Estimated average man-hours per respondent: 8.
13. Information to be collected: For all respondents, the standard OMB Financial Status Report will be used. For grantees under College Library Resources and Equipment and Materials, a supplementary financial table on maintenance-of-effort is appended to the financial status report. For grantees under Library Training, a narrative outline is provided for a performance report on program accomplishment.

[FR Doc. 77-35639 Filed 12-13-77; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA NATIVE CLAIMS SELECTION


sions of section 12(a) (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)) of the Alaska Native Claims Settlement Act for lands located near the village, including lands within the subject State selections. The application was submitted on December 13, 1974 to give a new description of the lands to be selected and to supersede the previously filed application.

Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that village selections shall be made from lands withdrawn by section 11(a). Section 11(a)(2) withdrew for possible selection by the Native corporation those lands that have been selected by, or tentatively approved to, but not yet patented to, the State under the Alaska Statehood Act. Section 12(a)(1) further provides that no village corporation may select more than 69,120 acres from lands withdrawn by section 11(a)(2).

The following described lands, which are State selected and were tentatively approved in part, have been properly selected under section A-056426 and A-056427 are rejected as to the following described lands:

**STATE SELECTION A-056426**

T. 27 S., R. 20 W., Seward Meridian, Alaska (Unsurveyed)

Sec. 1 (fractional), all;
Sec. 2, all;
Sec. 9 to 12, inclusive, all;
Sec. 13, N%4, excluding Monashka Bay;
SW%4; N%4SE%4, excluding Monashka Bay;
SW%4SE%4;
Sec. 14, 15 and 16, all;
Sec. 21 and 22, all;
Sec. 23, N%4, N%4SW%4, SW%4SW%4,
NW%4;
Sec. 24, N%4NW%4;
Sec. 27, N%4, SW%4, W%4SE%4.

Containing approximately 8,565 acres.

**STATE SELECTION A-056427**

T. 26 S., R. 20 W., Seward Meridian, Alaska (Unsurveyed)

Sec. 23 (fractional), excluding U.S. Survey 0971;
Secs. 26, 35 and 36 (fractional), all;

Containing approximately 1,130 acres,

Total aggregated acreage, approximately 9,695 acres.

The total amount of State selected lands, including any selection applications previously rejected to permit conveyances to Ouzinkie Native Corp., is 29,917 acres, which is less than the 69,120 acres permitted by section 12(a)(2) of the Alaska Native Claims Settlement Act. Further action on the subject State selection applications, as to those lands not rejected herein, will be taken at a later date.

As to the above-described lands, the application, submitted by Ouzinkie Native Corp., as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the above-described lands, selected pursuant to section 12(a), aggregating approximately 9,695 acres, is considered proper for acquisition by Ouzinkie Native Corp. and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way for ditches and canals and uplands connected by the authority of the United States, as prescribed and directed by the act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945;

2. A right-of-way thereon for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305, 43 U.S.C. 976d;

3. The subsurface estate therein, and all rights, privileges, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(d) (Supp. V, 1975)); and

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6688-EE, are reserved to the United States and subject to further regulation thereby:

(a) (EIN P 9) A continuous linear easement for an existing access trail twenty-five (25) feet in width from Neva Cove to Monashka Bay. The trail follows the right bank of the creek for the first 1/4 mile as it leaves Neva Cove. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

(b) (EIN P 1) A continuous linear easement twenty-five (25) feet in width along and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient state will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

(c) (EIN P 9 A) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks and an easement on the entire bed of Monashka Creek from the existing road crossing Monashka Creek downstream to Monashka Bay. Purpose is to provide for public use of waters having highly significant present recreational use.

(d) (EIN P 11) The right of the United States to enter upon the lands hereinafter granted for cadastral, geodetic, or other survey purposes is hereby reserved to be used together with the right to do all things necessary in connection therewith.

The grant of the above-described land shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinafter granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. ch. 2, sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractor, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. The following third-party interests, if valid, created and identified by the State of Alaska as provided by section 14(g) of the Alaska Native Claims Settlement Act (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g) (Supp. V, 1975)):

(a) Open-to-entry leases, each approximately 5 acres in size, located in T. 26 S., R. 20 W., Seward Meridian:

1. ADL 52675, located in NW%4NW%4 of section 26;

2. ADL 52676, located in NW%4NW%4 of section 26;

3. ADL 52677, located in NW%4NW%4 of section 26;

4. ADL 52678, located in NW%4NW%4 of section 26;

5. ADL 52679, located in NW%4NW%4 of section 26;

6. ADL 52680, located in SW%4NE%4 of section 26;

7. ADL 52681, located in SW%4NE%4 of section 26;

8. ADL 52682, located in SE%NW%4 of section 26;

9. ADL 52683, located in SE%NW%4 of section 26;
10. ADL 52712, located in SW\(\frac{1}{4}\)NW\(\frac{1}{4}\) of section 36.
11. ADL 52722, located in SE\(\frac{1}{4}\)NE\(\frac{1}{4}\) of section 36 and SW\(\frac{1}{4}\)NW\(\frac{1}{4}\) of section 36.

(b) Right-of-way permits in T. 27 S., R. 20 W., Seward Meridian:
1. ADL 35527, to Department of Highways, traversing selected lands in section 13.
2. ADL 54747, to City of Kodiak, traversing selected lands in section 13.

(c) Private recreation lease ADL 39848, to Slavic Gospel Association, approximately 21.14 acres in size, located SW\(\frac{3}{4}\)SW\(\frac{1}{4}\), Section 36, T. 26 S., R. 20 W., Seward Meridian, and NW\(\frac{3}{4}\)NW\(\frac{1}{4}\) of Section 1, T. 27 S., R. 20 W., Seward Meridian.


5. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

6. The terms and conditions of the agreement dated November 12, 1976, between the Secretary of the Interior, Koniag, Inc., Ouzinkie Native Corp. and other Koniag village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management case file for Ouzinkie Native Corp., serialized AA-6688-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Ouzinkie Native Corp. is entitled to conveyance of 115,200 acres of land, selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act: to date, 55,991.02 acres of this entitlement have been approved for conveyance. The remaining entitlement of Ouzinkie Native Corp. will be conveyed at a later date. Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Koniag, Inc., when conveyance is conveyed to Ouzinkie Native Corp. for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2850.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times and Kodiak Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until January 13, 1978, to file an appeal.
3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Ouzinkie Native Corp. or Koniag, Inc., objects to any easement subject to the discretion of the State Director, a petition for reconsideration must be filed within 30 days from receipt of service of the Easement Agreement with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:


To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSEN,
Chief, Branch of Lands and Minerals Operations.

[F.R. Doc. 77-35651 Filed 12-13-77; 8:45 am]

[4310-84]

[AA-6674-A]

ALASKA NATIVE CLAIMS SELECTION

Correction

In F.R. Doc. 77-34842 appearing at page 61896 in the Federal Register of December 7, 1977, paragraph 2 appearing in the third column of page 61896 is corrected by inserting in the last line of that paragraph the date “January 13, 1978” following the word “until” and immediately preceding “to file an appeal.”

Dated: December 9, 1977.

GEORGE L. TURCOTT,
Acting Director,
Bureau of Land Management.

[FR Doc. 77-35650 Filed 12-13-77; 8:45 am]

[4310-84]

Bureau of Land Management

OUTER CONTINENTAL SHELF, SOUTH ATLANTIC

Proposed Oil and Gas Lease Sale—No. 43; Oil and Gas Leasing

In connection with oil and gas leasing on the Outer Continental Shelf, the Secretary of the Interior has established a new policy relating to sale notices to further and enhance consultation with the affected coastal States. That policy includes providing the affected States with the opportunity to review the draft proposed sale notice prior to its final publication in the Federal Register. The following is a draft sale notice for proposed Sale No. 43 in the offshore waters of the South Atlantic area. This notice is hereby published as a matter of information to the public.

A decision has not been reached on the type of bidding system(s) to be used for this sale. The Secretary of the Interior is considering the possibility of offering some of the tracts on a royalty bid basis, with the remaining tracts to be offered on a cash bonus bid basis. If the royalty bid method is used, special stipulations will be applied which are included in the proposed notice of sale.


GEORGE L. TURCOTT,
Acting Director,
Bureau of Land Management.


CEcil D. ANDRUS,
Secretary of the Interior.

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
NOTICES

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343) and the regulations issued thereunder (43 CFR Part 3300).

2. Filing of Bids. Sealed bids will be received by the Manager, New Orleans Outer Continental Shelf (OCS) Office, Bureau of Land Management, Hag Boggs Federal Building, 500 Camp Street, suite 841, New Orleans, La. 70130. Bids may be delivered, either by mail or in person, to the above address until 4:15 p.m., c.s.t., March —, 1978, or by personal delivery to the Grand Ballroom, Royal Sonesta Hotel, 300 Bourbon Street, New Orleans, La. 70140, between the hours of 8:30 to 9:30 a.m., c.s.t., March —, 1978. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 4:15 p.m., c.s.t., March —, 1978. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 42 FR 54881, October 11, 1977, and the correction thereto published in 42 FR 55280, October 14, 1977.

3. Method of Bidding. A separate bid in a sealed envelope, labeled “Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., c.s.t., March —, 1978,” must be submitted for each tract. A suggested bid format appears in paragraph 17 of this notice. Bidders are advised that tract numbers are assigned solely for identification purposes and are not the same as block numbers found on Official Protraction Diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash, or by cashier’s check, bank draft, certified check or money order, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent, for a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Part 3302. The suggested form for this statement to be used in joint bids appears in paragraph 18. Other documents required of bidders are listed under 43 CFR 3302.4. Bidders are warned against violation of 18 U.S.C. 1869, prohibiting unlawful combination or intimidation of bidders.

4. Royalty Bidding. Bids on the following tracts must be submitted on a royalty bid basis with a fixed cash bonus as indicated. Leases which may be awarded on a royalty bid basis will provide for a yearly rental or minimum royalty payment of $8 per hectare or fraction thereof. All royalty bids must be expressed in a percent to a maximum of five decimal places. Although a percentage could be expressed in other ways, it is requested that it be written as it is in the following example: 21.75698%. A suggested royalty bid form is shown in paragraph 17(a).

(a) A fixed cash bonus of $ per hectare will be required on tracts 43. (Tracts and terms to be listed.)

(b) A fixed cash bonus of $ per hectare will be required on tracts 43. (Tracts and terms to be listed.)

(c) A fixed cash bonus of $ per hectare will be required on tracts 43. (Tracts and terms to be listed.)

(d) A fixed cash bonus of $ per hectare will be required on tracts 43. (Tracts and terms to be listed.)

5. Bonus Bidding. Bids on the remaining tracts to be offered at this sale must be on a cash bonus with a fixed royalty of 16% percent. Leases which may be issued will provide for a yearly rental payment or minimum royalty payment of $8 per hectare or fraction thereof. A suggested cash bonus bid form is shown in paragraph 17(b).

6. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., c.s.t., March —, 1978, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 30, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

7. Bid Opening. Bids will be opened on March —, 1978, beginning at 10 a.m., c.s.t., in the Grand Ballroom, Royal Sonesta Hotel at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing the recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, March —, 1978, that bid will be returned unopened to the bidder, as soon thereafter as possible.

8. Deposit of Payments. Any cash, cashier’s checks, certified checks, bank drafts, or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to submission of a written acceptance of a bid for that tract.

10. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In no case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has compiled with all requirements of this notice and applicable regulations;

(b) The bid for the highest valid royalty bid on the designated royalty tracts or the highest valid cash bonus bid for the remaining tracts; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $8 or more per hectare or fraction thereof on the tracts designated for cash bonus bidding and 12.50 percent or more royalty on the tracts designated for royalty bidding.

11. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year’s annual rental and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

12. Protraction Diagrams. Tracts offered for lease may be located on the following Outer Continental Shelf Official Protraction Diagrams which may be purchased for $2 each from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2.

(1) NH 17-12, James Island;

(2) NH 17-2, Brunswick; and

(3) NH 17-5, Jacksonville.

Tract Descriptions. The tracts offered for bid are as follows:

NOTE.—There is a gap in the sequence of the numbers of the tracts listed. One of the blocks identified in the final environmental statement is not included in this notice.

OCS OFFICIAL PROTRACTION DIAGRAM, JAMES ISLAND, NH 17-12 (APPROVED JUNE 11, 1975)

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1 hectare equals 2.471 acres.
### OCS Official Protraction Diagram, James Island, Nl 17-12 (Approved June 11, 1975)—Continued

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### OCS Official Protraction Diagram, Brunswick, NH 17-2 (Approved April 29, 1975)

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14. **Lease Terms and Stipulations.** Leases issued as a result of this sale will be on Form 3300-1 (December 1976), available from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale.

In the following stipulations the term Supervisor refers to the Atlantic area oil and gas Supervisor for operations of the Geological Survey and the Term Manager refers to the Manager of the New Orleans OCS Office of the Bureau of Land Management.

**Stipulation No. 1**

Prior to any drilling activity or the construction or placement of any structure for exploration or development of a lease, including but not limited to well drilling and pipeline and platform placement, the lease will submit to the Supervisor as part of his exploration and/or development plan a bathymetry map, prepared utilizing remote sensing and/or other survey techniques. This map will include indications for the presence of live bottom areas within a minimum one-mile radius of the proposed exploration or production activity site.

The purpose of this stipulation, live bottom areas are defined as those areas...
which contain biological assemblages consisting of such sessile invertebrates as sea fan, soft corals, sponges, anemones, sea cucumbers, sponges, bryozoans, and corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or irregular surfaces, or whose lithotopic favors the accumulation of turtles and fishes. If it is determined that the remote sensing data indicate the presence of hard or live bottom areas, the lessee will also submit to the Supervisor a photo-documentation of the sea bottom near proposed exploratory drilling sites or proposed platform locations.

If it is determined that live bottom areas might be adversely impacted by proposed activities, then the Supervisor will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to protect live bottom areas. These measures may include, but are not limited to, the following:

(a) The relocation of activities to avoid live bottom areas.
(b) The shunting of all drilling fluids and cuttings to such a manner as to avoid live bottom areas.
(c) The transportation of drilling fluids and cuttings to approved disposal sites.

(d) The lessee may conduct remote sensing activities, as deemed necessary by the Supervising hydrographer, to the end that the Supervisor is able to ascertain the adequacy of any mitigation measures taken and the impact of lessee initiated activities.

**Stipulation No. 2**

If the Supervisor, having reason to believe that a site, structure, or object of historical or archaeological significance, hereafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessee is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling or exploratory activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operations", the lessee shall conduct remote sensing activities, as deemed necessary by the Supervising hydrographer, to determine the existence of any unexplored ordnance (munitions, mines, or bombs). The lessee's report to the Supervisor should document all indications of magnetic or sidescan sonic anomalies on the sea floor.

**Stipulation No. 3**

The lessee shall conduct remote sensing and/or other surveys as specified by the Supervisor to determine the existence of any cultural resource which may be adversely affected by such operation so as not to adversely affect the location identified or that such operation shall not adversely affect such cultural resource until the Supervisor has given direction as to its disposition.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased areas, he shall report immediately such findings to the Supervisor and make very reasonable efforts to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its disposition.

**Stipulation No. 4**

To provide information to coastal States and thus assist them in planning for the impact of activities during exploration and development, the lessee shall conduct remote sensing activities, as deemed necessary by the Supervising hydrographer, to the extent that the Supervisor has given directions as to its disposition.

A copy of the Notice shall be submitted to the Supervising hydrographer no later than the date of discovery. The lessee shall have the certification for the Notice by the Governor of each South Atlantic State a "Notice of Support Activity for the Exploration Program" (hereinafter called "Notice").

For the purpose of this stipulation, South Atlantic States include North Carolina, South Carolina, Georgia, and Florida. The lessees shall not be required to include privileged information in this Notice. At his discretion, the lessee may submit either a separate Notice for each Exploration Plan submitted on a lease under 30 CFR 259.34, or a Notice for two or more Plans on one or more leases. The Notice shall not be subject to approval or disapproval by the Supervisor.

A copy of the Notice shall be submitted to the Supervising hydrographer no later than the date of discovery. The Notice shall be certified by the Governor of each South Atlantic State and a cover letter with the certification that the Notice has already been submitted to the Governor of each South Atlantic State. A lessee who submits a Notice for two or more Plans for one or more leases shall not be required to supply additional copies of the Notice, but may instead refer to that prior submission. Before the Supervising hydrographer approves or disapproves the Exploration Plan, he shall allow at least 30 days from the date of receipt of the certification for the Governors to submit comments on the Notice to the lessee. Subsequent to submission of the certification, significant changes in estimated support activities will be forwarded by the lessee, as an amendment to the Notice to the Governors of the South Atlantic States and the Supervising hydrographer.

The Notice shall include with respect to the lessee and shall include a qualified marine survey archaeologist or undersea archaeologist shall be submitted to the Governor of each State for their review. The Supervisor shall determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant the lessee's action. The lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its disposition.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased areas, he shall report immediately such findings to the Supervisor and make very reasonable efforts to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its disposition.

**Stipulation No. 5**

Pipelines will be required: (1) if pipeline rights can be given to any recommended by the Supervising hydrographer, the lessee may submit either a separate Notice for each Exploration Plan submitted on a lease under 30 CFR 259.34, or a Notice for two or more Plans on one or more leases. The Notice shall not be subject to approval or disapproval by the Supervisor. For the purpose of this stipulation, South Atlantic States include North Carolina, South Carolina, Georgia, and Florida. The lessees shall not be required to include privileged information in this Notice. At his discretion, the lessee may submit either a separate Notice for each Exploration Plan submitted on a lease under 30 CFR 259.34, or a Notice for two or more Plans on one or more leases. The Notice shall not be subject to approval or disapproval by the Supervisor.

A copy of the Notice shall be submitted to the Supervising hydrographer no later than the date of discovery. The lessee shall have the certification for the Notice by the Governor of each South Atlantic State and a cover letter with the certification that the Notice has already been submitted to the Governor of each South Atlantic State. A lessee who submits a Notice for two or more Plans for one or more leases shall not be required to supply additional copies of the Notice, but may instead refer to that prior submission. Before the Supervising hydrographer approves or disapproves the Exploration Plan, he shall allow at least 30 days from the date of receipt of the certification for the Governors to submit comments on the Notice to the lessee. Subsequent to submission of the certification, significant changes in estimated support activities will be forwarded by the lessee, as an amendment to the Notice to the Governors of the South Atlantic States and the Supervising hydrographer.

The Notice shall include with respect to the lessee and shall include a qualified marine survey archaeologist or undersea archaeologist shall be submitted to the Governor of each State for their review. The Supervisor shall determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant the lessee's action. The lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its disposition.

(c) An estimate of the frequency of boats and aircraft departures and arrivals, on a monthly basis, and the possible onshore location of navigation aids or airport facilities.

(d) The approximate number of persons who are expected to be engaged in onshore support activities and transportation, and the approximate number of persons who are expected to be employed by or in support of the exploration program.

(e) Information as to the approximate addition to the population, on a county basis, due to the exploration program and the approximate number of persons needing housing and other facilities, due to the exploration program.

(f) An estimate of any significant quantity of major supplies, including water and energy, that will be procured within the States; and

(g) The onshore address of the lessee's operation officers and of the contractors' officers involved in the exploratory operation.

**Stipulation No. 6**

(To be included only in leases resulting from this lease sale for tracts 43-1 through 43-39, inclusive)

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise to the lessee, any employee, or to any person or property, for damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf to any person or persons or to any property, including lessees, contractors, subcontractors, licensees, or lessees or any agents, employees, or invitees of

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the lessee, its agents, independent contractors, or subcontractors, doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons which occurs by reason of the activities of any of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with the programs and activities of the Outer Continental Shelf, to any person or persons or to any property of any person or persons which occurs by reason of the activities of any contractor or subcontractor doing business with the lessee in connection with the programs and activities of the Operating Area Coordinator, Naval Air Station, Jacksonville, Fla. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

The lessee further agrees to indemnify and save harmless the United States against, and to defend at its own expense the United States, its contractors or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

(b) The lessee agrees to control his own electromagnetic emissions and those of its agents, employees, invitees, independent contractors, or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the appropriate onshore military installation, i.e., Operating Area Coordinator, Naval Base, Charleston, S.C., to the degree necessary to prevent damage, or unacceptable interference with Department of Defense flight testing or operational activities, conducted within individual designated warning areas. Necessary monitoring, control, and coordination with the lessee, its agents, employees, invitees, independent contractors, or subcontractors, shall be required to maintain the electromagnetic environment of the area above the anomaly.

(c) The lessee, when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the appropriate onshore military installation, i.e., Operating Area Coordinator, Naval Base, Charleston, S.C., utilizing an individual designated warning area as the basis for such traffic. Such an agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

STIPULATION NO. 7

(a) To be included only in leases resulting from this sale for tracts 43-25, 43-33, 43-40, 43-47, 43-83, 43-105, 43-202, 43-212, 43-218, and 43-222.

(b) The lessee agrees to control his own electromagnetic emissions and those of its agents, employees, invitees, independent contractors, or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the appropriate onshore military installation, i.e., Operating Area Coordinator, Naval Air Station, Jacksonville, Fla., to the degree necessary to prevent damage, or unacceptable interference with Department of Defense flight testing or operational activities, conducted within individual designated warning areas. Necessary monitoring, control, and coordination with the lessee, its agents, employees, invitees, independent contractors, or subcontractors, shall be required to maintain the electromagnetic environment of the area above the anomaly.

STIPULATION NO. 8

Unless the lessee can demonstrate to the satisfaction of the Supervisor that it would not be in the interests of conservation, all the lessee's operations which extend into one, or more other leases, as indicated by drilling and other information, shall be operated and produced only under a unit agreement including the other lease(s) involved by the lessee. A unit agreement shall provide for the fair and equitable allocation of production and costs. The Supervisor shall prescribe the method of allocation of the benefits and costs in the event operators are unable to agree on a method acceptable to him.

STIPULATION NO. 9

(a) This stipulation shall be applied to tracts 43-25, 43-33, 43-40, 43-47, 43-83, 43-105, 43-202, 43-218, and 43-222.

(b) The lessee, when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the appropriate onshore military installation, i.e., Operating Area Coordinator, Naval Base, Charleston, S.C., utilizing an individual designated warning area as the basis for such traffic. Such an agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

STIPULATION NO. 10

(To be included only in leases resulting from this sale for tracts 43-195, 43-202, 43-218, 43-222, and 43-223.)

When not in good faith, the lessee or the lessee's contractor may be subject to mass movement (slumping), of sediments. Emplacement of structures (platforms), or seafloor wellheads for the production or storage of oil or gas will not be allowed on those portions of the tract which may be subject to mass movement of sediments unless the lessee has demonstrated to the Supervisor's satisfaction that the potential for mass movement of sediments does not exist or that structures (platforms), casing, and wellheads can be safely designed to withstand such mass movement at the proposed location of the structure.

(To be included only in leases resulting from this sale for tracts 43-97 and 43-98.)
States, its contractors or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

15. Information to Lessees. The Department of the Interior will seek the advice of the States of North Carolina, South Carolina, Georgia, and Florida and other Federal agencies, to identify areas of special concern which might require the burial of pipelines, appropriate protective measures for live bottom areas, and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely impacted by the proposed activities, then the Supervisor, in consultation with the Regional Director Fish and Wildlife Service (FWS), the Manager, BLM and the States, will require the lessee to undertake any measures deemed economically, environmentally, and technically feasible to protect live bottom areas.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Corps of Engineer permits are required for construction of any structures in or over any navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and for artificial islands and fixed structures located on the Outer Continental Shelf in accordance with section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333(f)).

Bidders are referred to the Department's proposed regulations on development phase environmental impact statements which were published in 42 FR 49478, September 27, 1977.

In applying safety, environmental and conservation laws and regulations, the Supervisor will require the use of the best available and safest technology which is determined to be economically achievable. To the extent practicable, the Supervisor will consult with the relevant Federal agencies and the affected States(s) in the execution of these responsibilities.

Bidders are advised that the Department of Energy, Environmental Protection Agency, U.S. Coast Guard, and Department of Transportation, administer laws and promulgate regulations affecting operations undertaken on OCS leases issued by the Department of Interior, Lessees are obligated to conduct their operations in compliance with such laws and regulations.

16. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all South Atlantic and National OCS Orders, as of their effective date.

17. Suggested Bid Form. It is suggested that bidders submit their bids to the Manager, New Orleans Outer Continental Shelf Office, in the following form:

(a) For the royalty bid tracts as described in Paragraph 4:

OIL AND GAS BID—ROYALTY

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf described below:

Tract No.: __________; Percent royalty bid expressed to maximum of 5 decimals: ______; Amount of fixed cash bonus submitted with bid: ______.

PROPORTIONATE INTEREST OF COMPANY(S) SUBMITTING BID (PERCENT)

Qualification No.: __________. Company Address __________. Signature __________. (Please type signer's name under signature)

(b) All tracts offered for cash bonus bidding:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.: __________; Total amount bid: ______; Amount per hectare: ______; Amount of cash bonus submitted with bid: ______.

PROPORTIONATE INTEREST OF COMPANY(S) SUBMITTING BID (PERCENT)

Qualification No.: __________. Company Address __________. Signature __________. (Please type signer's name under signature)

18. Required Joint Bidders Statement. In this case of joint bids, it is suggested that each joint bidder execute the following statement before a notary public and submit it with his bid:

"JOINT BIDDER'S STATEMENT

I hereby certify that ______ (entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid. __________________________

Signature (Please type signer's name under signature)

Sworn to and subscribed before me this ______ day of ______.

Notary Public State of ______

County of ______.

[FR Doc. 77-35438 Filed 12-8-77; 9:21 am]

[4310-70]

National Park Service

[Order No. 41]

ADMINISTRATIVE OFFICER, OZARK NATIONAL SCENIC RIVERWAYS

Delegation of Authority Regarding Purchasing Authority

SECTION 1. Administrative Officer. The Administrative Officer may issue purchase orders and enter into contracts not in excess of $75,000 for supplies or equipment and services in conformance with applicable regulations and statutory authority and subject to availability of appropriated funds.


ARTHUR L. SULLIVAN,
Superintendent, Ozark National Scenic Riverways.

[FR Doc. 77-35619 Filed 12-13-77; 8:45 am]

[4310-70]

[Order No. 11]

ADMINISTRATIVE SERVICES ASSISTANT, ANDERSONVILLE NATIONAL HISTORIC SITE, GA.

Delegation of Authority

SECTION 1. Administrative Services Assistant. The Administrative Services Assistant may execute, approve, and administer contracts not in excess of $2,000 for supplies, equipment, or services in conformance with applicable regulations and statutory authority and subject to the availability of appropriated funds.


J. H. FLISER,
Superintendent, Andersonville National Historic Site.

[FR Doc. 77-35618 Filed 12-13-77; 8:45 am]
NOTICES

DEPARTMENT OF JUSTICE
Office of the Attorney General

C.H.B. FOODS, INC.

Proposed Consent Decree (Federal Water Pollution Control Act)

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on November 21, 1977, a proposed consent decree in "United States v. C.H.B. Foods," No. CV-77-2082-R, was lodged with the U.S. District Court for the Central District of California. The proposed decree requires the company to direct its process wastewaters to the Terminal Island Treatment Plant and to pay $80,000 to the United States.

The Department of Justice will receive on or before January 13, 1978, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to "United States v. C.H.B. Foods, Incorporated," D.J. Ref. 90-5-1-1-763.

The proposed consent decree may be examined at the office of the U.S. Attorney for the Central District of California, 321 North Spring Street, Los Angeles, Calif. 90012; at the Region IX office of the U.S. Environmental Protection Agency, Enforcement Division, 215 Fremont Street, San Francisco, Calif. 94105; and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, room 2625, 9th Street and Pennsylvania Avenue NW, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice.

The Department of Justice will receive on or before January 13, 1978, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to "United States v. City of Yankton, South Dakota," D.J. Ref. 90-5-1-1-875.

James W. Moorman,
Assistant Attorney General,
Land and Natural Resources Division.

[4410-01]

UNITED STATES v. ALLIED CHEMICAL CORP.

Consent Decree in Action To Enforce Compliance With Terms of NPDES Permit and To Impose Penalties for Violations of That Permit.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on September 27, 1977 a consent decree in "United States v. Allied Chemical Corporation," was filed with the U.S. District Court for the Middle District of Louisiana. The decree requires the defendant to comply with the terms of its permit by September 1, 1978, and provides that the defendant will pay a penalty of $1,000 per month for each month after July 1, 1977, until defendant complies with the terms of its permit.

The Department of Justice will receive on or before January 13, 1978, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C., 20530 and should refer to "United States v. Allied Chemical Corporation," D.J. Ref. 90-5-1-1-857.

The consent decree may be examined at the office of the U.S. Attorney, Middle District of Louisiana, Federal Building and U.S. Courthouse, room 130, 707 Florida Street, Baton Rouge, La. 70801, at the Region VI office of the Environmental Protection Agency, Enforcement Division, First International Building, 1201 Elm Street, Dallas, Tex., 75270, and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, room 2625, 9th Street and Pennsylvania Avenue NW, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

James W. Moorman,
Assistant Attorney General,
Land and Natural Resources Division.

[4410-01]

IN THE MATTER OF

IOWA ELECTRIC LIGHT & POWER CO.

Proposed Issuance of Amendments to Facility Operating License

The U.S. Nuclear Regulatory Commission (the NRC) has received from the Iowa Electric Light & Power Co. (the licensee) a report for NRC review and approval to store additional quantities of spent fuel in the spent fuel pool at the Duane Arnold Energy Center (the facility) in Linn County, Iowa. Such approval would require amendment of Facility Operating License No. DPR-49. The licensee proposes to replace the existing racks in the spent fuel pool of the facility with racks of a design capable of accommodating additional spent fuel assemblies in accordance with the licensees request dated October 13, 1977. Accordingly, notice is hereby given that the NRC has under consideration issuance of a license amendment authorizing the licensee to install the new racks and to store additional quantities of spent fuel in the spent fuel storage pool of the Duane Arnold Energy Center (the facility).

The NRC may issue the license amendment, (1) upon the completion of a Safety Evaluation on the license...
be delivered to the NRC Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date.

A petition for leave to intervene which is not timely will not be granted unless the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition determines that the petitioner, in addition to the matters specified in 10 CFR § 2.714(d), has made a substantial showing of good cause. The reasons for tardiness in filing a petition for leave to intervene, as well as the factors specified in 10 CFR § 2.714(d), shall be considered in determining whether there has been a substantial showing of good cause by petitioners.

For further details pertinent to these matters, see the licensee’s letter dated October 13, 1977 along with other material that may be submitted by the licensee in support of this proceeding. Petitions for leave to intervene shall be filed under oath of affirmation.

A request for a hearing or a petition for leave to intervene must be filed under oath of affirmation by the licensee in support of this proceeding. Petitions for leave to intervene shall be filed under oath of affirmation and shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner’s right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner’s property, financial, or other interest in the proceeding; and (3) the possibility of an order which may be entered in the proceeding on the petitioner’s interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which he wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. Petitions or contentions relating only to matters outside the Commission’s jurisdiction will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section or may be delivered to the NRC Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date.

A copy of the petition and/or request should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Robert Lowenstein, Esquire, of the firm of Lowenstein, Newman, Reis & Axelrad, 1035 Connecticut Avenue, NW., Washington, D.C. 20036, the attorneys for the licensee.

A petition for leave to intervene which is not timely will not be granted unless the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition determines that the petitioner, in addition to the matters specified in 10 CFR § 2.714(d), has made a substantial showing of good cause. The reasons for tardiness in filing a petition for leave to intervene, as well as the factors specified in 10 CFR § 2.714(d), shall be considered in determining whether there has been a substantial showing of good cause by petitioners.

For further details pertinent to these matters, see the licensee’s letter dated October 13, 1977 along with other material that may be submitted by the licensee in support of this section, all of which are or will be available for public inspection at the NRC’s Public Document Room, 1717 H Street NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue SE., Cedar Rapid, Iowa.

Dated at Bethesda, Md. this 7th day of December 1977.

For the Nuclear Regulatory Commission.

GEORGE L. LEACH
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[6325-01] PRESIDENT’S COMMISSION ON WHITE HOUSE FELLOWSHIPS

MEETING

Pursuant to section 10 of Pub. L. 82-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the President’s Commission on White House Fellowships will be held on January 20, 1978, from 9:30 a.m. to 5 p.m., in the Civil Service Commission Building, 1900 E Street NW., room 5A06A, Washington, D.C.

This meeting is scheduled to give the Commissioners an opportunity to evaluate and review the Fellowship Program. The items to be discussed will include the educational program, general program evaluation, inclusion of or exclusion of career categories, fellowship application and selection processes, job performance by current Fellows, endowment fund-raising, and other Commission matters.

The meeting will be open to the public. Questions about the agenda can be directed to 202-653-6283.

W. LANDIS JONES, Director.

[4710-01] DEPARTMENT OF STATE

[Public Notice CM-7/142]

SHIPPING COORDINATING COMMITTEE, SUB-COMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on radiocommunications, a part of the Subcommittee on Safety of Life at Sea (SOLAS) of the Shipping Coordinating Committee (SHC), will conduct an open meeting at 1:30 p.m. on January 10, 1978 in room 8442 of the Department of Transportation, 400 7th Street SW., Washington, D.C.

The meeting’s purpose is to review position documents for the Nineteenth Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO), to be held in London in the Autumn of 1978. In particular, the following topics will be discussed at the meeting of the working group:

- Code of safety requirements for mobile offshore drilling units.
- Operational standards for shipboard radio equipment.
- Operational requirements for emergency position-indicating radio beacons and portable radio apparatus for survival craft.

Requests for further information on the meeting should be directed to Lt. F. N. Wilder, U.S. Coast Guard (G-OTM/74), Washington, D.C. 20390. He may be contacted at 202-426-1345.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, Jr., Acting Director, Shipping Coordinating Committee.

DECEMBER 7, 1977.

[PR Doc. 77-35625 Filed 12-13-77; 8:45 am]

[4710-01] SHPING COORDINATING COMMITTEE, SUB-COMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on international multimodal transport and containers...
of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting from 9:30 a.m. to 5 p.m., on Wednesday, February 1, 1978, in room 6334 of the Department of Transportation, 400 7th Street SW., Washington, D.C.

The purpose of the meeting is to discuss matters germane to multimodal transport and containers. The following specific issues will be addressed in the order indicated:

Discussion of regulations for the International Convention on Safe Containers (CSC).

Discussion of U.S. preparations for the 20th Session of the Group of Rapporteurs on International Multimodal Transport.

Suggestions for new discussion items.

Other Business.

Any questions concerning this meeting should be directed to Mr. Richard E. Jobe, Department of State, 202-632-1313.

Comments from the public will be welcomed.


CARL TAYLOR, JR.,
Acting Chairman, Shipping Coordinating Committee.

[FR Doc. 77-35656 Filed 12-13-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

December 9, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains preliminary assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.


MC 112822 (Sub-No. 421), Bray Lines Inc., now being assigned January 24, 1978 (1 day), for hearing in Chicago, Ill., in a hearing room to be later designated.

MC 113441 (Sub-No. 83), Gra-Bell Truck Line, Inc., now being assigned March 13, 1978 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 121844 (Sub-No. 2), S & W Freight Lines, Inc., now being assigned January 24, 1978 (2 days), at Memphis, Tenn., and will be held at Executive Plaza Inn, 1471 East Brooks Road at I-55.

MC-F-13229, Florida Texas Freight, Inc.—Investigation of Control—Fanning Transport Corporation, Inc., now being assigned January 31, 1978 (4 days), at Tampa, Fla., February 6, 1978 (1 week), and February 20, 1978 (1 week), at the Offices of the Interstate Commerce Commission in Washington, D.C., for continued hearing, in hearing rooms to be later designated.

MC 141551 (Sub-No. 1), Robert W. Rettig, d.b.a. Protein Express, now assigned January 24, 1978, at Chicago, Ill., is postponed indefinitely.

MC 129903 (Sub-No. 7), Emporia Motor Freight, Inc., now being assigned January 23, 1978 (1 week), for continued hearing at Emporia, Kansas, and will be held in the Emporia Room, Holiday Inn, I-35 and Industrial.

MC 11832 (Sub-No. 74), Schultz Transit, Inc., now being assigned January 25, 1978 (1 day), at St. Paul, Minn., and will be held in Court Room 564, Federal Building, 5th Floor, 316 North Robert Street, Minneapolis, Minn., on or before January 29, 1978.

MC 108207 (Sub-No. 458), Frozen Food Express, now being assigned January 17, 1978 (3 days), at Jefferson City, Mo., in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-35655 Filed 12-13-77; 8:45 am]

[7035-01]

DEPARTMENT OF DEFENSE—PETITION FOR DECLARATORY ORDER—PRELODGING SHIPPING DOCUMENTS

Change in Procedural Schedule

The issue to be resolved in this proceeding is whether prelodging of shipping documents in connection with rearranged scheduling is a special service for which a separate charge may be imposed, or is a natural part of prearranged scheduling to be performed without additional charge. The Department of Defense (DOD) originally raised this issue in Ex Parte No. 88, Declaration of Motor Vehicles—Nationwide. However, in its report on reconsideration, 126 MCC 803, 814-15 (1977), the Commission decided to resolve the issue by declaratory order. Accordingly, this proceeding was instituted on November 11, 1977, in response to a petition filed by DOD.

Any person intending to participate actively in this proceeding shall notify the Commission by filing an original and one copy of a statement of intent to participate, which shall also state the position intended to be taken. Statements must be filed with the Interstate Commerce Commission, Washington, D.C. 20423, on or before 20 days from publication of this notice.

The Office of Proceedings shall then prepare, and make available to all those who submitted statements of intent to participate, a list of the names and addresses of all parties to this proceeding, upon whom copies of all pleadings must be served. Opening statements of fact and argument by petitioner and any parties supporting petitioner will be due 20 days after service of the participation list. Thirty days after that date, statements of facts and argument by any party in opposition are due. Opposer's reply will be due 15 days thereafter.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-35657 Filed 12-13-77; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

December 9, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

FSA No. 43477—Hoisting Machinery from Pocatello, Idaho. Filed by Southwestern Freight Bureau, Agent (No. B-17), for interest of rail carriers.

Rates on machinery, hoisting, etc., transported on flat cars, as described in the application, from Pocatello, Idaho, to points in southwestern territories.

Grounds for relief—Market competition and rate relationship.

NOTICES

MOTOR CARRIERS OF PROPERTY

No. MC 50069 (Sub-No. 526TA), filed November 14, 1977. Applicant: REFINERS TRANSPORT & TERMINAL CORP., 445 Earwood Avenue, Oklahoma City, Okla. 73125. Applicant's representative: William P. F. H. Wilson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products, in bulk, in tank vehicles, from Dublin, Ind. to: Stoy and Robinson, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dillman Oil Recovery, Inc., 1003 1st Avenue, near Claypool Hill, Va., serving no interests. These rules provide that an original application for temporary authority may be filed with the field office under the provisions of 49 CFR 1131.3. The protest must be served on the applicant, or its authorized representative, if any, and the protesting party must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protest must specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protest's information. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry chemicals, in bulk, in tank or hopper-type vehicles, from: Alpine, Ala., to points in Tennessee, North Carolina, South Carolina, and Georgia, for 180 days. Supporting shipper: Great Lakes Minerals Co., 2835 East Lake Street, Chicago, Ill. 60617. Authority has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City, Okla. 73125. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Salt cake, in bulk, from East Camden, Ark., to Lufkin, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City, Okla. 73125. 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 packhouse commodities as described in sections A and C to appendix I in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk). From the facilities of MBPXL Corp. at Wichita, Kans., to points in Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Delaware, the District of Columbia, restricted to the transportation of traffic originating at the named origin facilities and des-
tined to the named destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: MBPIX, Corp., Box 2518, Wide, Va. Send protests to: C. P. Myers, District Supervisor, Interstate Commerce Commission, Box 869, Federal Square Station, Harrisburg, Pa. 17108.

No. MC 115406 (Sub-No. 68TA), filed October 25, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Highway 23 South, Cochran, Ga. 31014. Applicant’s representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Roofing and building materials, and materials used in the installation of such commodities (except commodities in bulk), from Knoxville, Tenn., to points in Alabama, Florida, Georgia, Illinois, Kentucky, Indiana, Ohio, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. (2) Paper, felt, building, roofing or sheathing from Knoxville, Tenn., to points in Alabama, Florida, Georgia, Illinois, Kentucky, Indiana, Ohio, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: MBPIX, Corp., Box 2518, Wide, Va. Send protests to: C. P. Myers, District Supervisor, Interstate Commerce Commission, Box 869, Federal Square Station, Harrisburg, Pa. 17108.

No. MC 121444 (Sub-No. 19TA), filed November 7, 1977. Applicant: ROBERT N. TOOMEY, d.b.a. ROBERT N. TOOMY TRUCKING CO., 4145 Olin Road, York, Pa. 17403. 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: Haydite, in bulk, in tanker truck, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Haydite, Inc., to the facilities of Silvertip Cellulose Insulation Co., Inc., at Caldwell, Idaho, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Silvertip Cellulose Insulation Co., Inc., P.O. Box 107A, Route 3, Caldwell, Idaho 83605. Send protests to: District Supervisor William H. Land, Jr., 3106 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 128202 (Sub-No. 39TA), filed November 14, 1977. Applicant: BULK- MATIC TRANSPORT COMPANY, 1200 South Doty Avenue, Chicago, Ill. 60628. Applicant’s representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Haydite, in bulk, in hopper type vehicles, from the plantsite of Hydraulic Press Brick, Brooklyn, Inc., to the plantsite of Perro Engineering, Calumet City, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Perro Engineering-Div. of Ogilby Norton Co., Walter C. Mayo, Assistant Vice President, 1200 Hanna Building, Cleveland, Ohio 44115. Hydraulic Press Brick Co., Robert V. Kaeser, Sales Manager, Brooklyn, Ind. Send protests to: District Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, room 1386, Chicago, Ill. 60604.

No. MC 128801 (Sub-No. 14TA), filed November 11, 1977. Applicant: RONALD SHREINER, R.D., No. 1, Lebanon, Pa. 17042. Applicant’s representative: John M. Shreiner, Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Haydite, in bulk, in tanker truck, from Denver and Fort Morgan, Colorado, and Chicago and Rochelle, Ill., to Philadelphia, Pa., under a continuing contract or contracts with A. Serven- nick & Sons, of Philadelphia, Pa., for 160 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. Serven-nick & Sons, 428 North 9th Street, Philadelphia, Pa. Send protests to: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. Authority sought as a contract carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by electronic equipment supply stores, electrical appliances stores, and store supplies (in bulk and those requiring the use of special equipment), (1) between the facilities of Radio Shack, division of Tandy Corp., at Vancouver, Wash., on the one hand and, on the other hand, on the one hand any one or more of the following points in Indiana, Illinois, Michigan, Ohio, Oregon, Idaho, Utah, Arizona, Wyoming, and Montana; (2) between the facilities of Radio Shack, division of Tandy Corp., at Garden Grove, Calif., on the one hand and, on the other hand, on the one hand any one or more of the following points in Arizona, Nevada, Utah, Oregon, Idaho, Washington, Wyoming, and Montana; (3) from Los Angeles, Calif., to the facilities of Radio Shack, division of Tandy Corp., at Vancouver, Wash. Restriction: Restricted in paragraphs (1), (2), and (3) above to a transportation service to be performed under a continuing contract or contracts with Tandy Corp. and its Radio Shack division, for 180 days. Supporting shipper: Radio Shack, division of Tandy Corp., 1000 No. 1 Tandy Center, Fort Worth, Tex. 76102. Send protests to: Robert J. Kir-spel, District Supervisor, room 8A07 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 141255 (Sub-No. 12TA), filed October 28, 1977. Applicant: TANDY TRANSPORTATION, INC., 7135, 3501 Fairview, Fort Worth, Tex. 76111. Applicant’s representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Fresh meats, from Denver and Fort Morgan, Colorado, and Chicago and Rochelle, Ill., to Philadelphia, Pa., under a continuing contract or contracts with A. Servet-nick & Sons, of Philadelphia, Pa., for 160 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. Serven-nick & Sons, 428 North 9th Street, Philadelphia, Pa. Send protests to: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. Authority sought as a contract carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by electronic equipment supply stores, electrical appliances stores, and store supplies (in bulk and those requiring the use of special equipment), (1) between the facilities of Radio Shack, division of Tandy Corp., at Vancouver, Wash., on the one hand and, on the other hand, on the one hand any one or more of the following points in Indiana, Illinois, Michigan, Ohio, Oregon, Idaho, Utah, Arizona, Wyoming, and Montana; (2) between the facilities of Radio Shack, division of Tandy Corp., at Garden Grove, Calif., on the one hand and, on the other hand, on the one hand any one or more of the following points in Arizona, Nevada, Utah, Oregon, Idaho, Washington, Wyoming, and Montana; (3) from Los Angeles, Calif., to the facilities of Radio Shack, division of Tandy Corp., at Vancouver, Wash. Restriction: Restricted in paragraphs (1), (2), and (3) above to a transportation service to be performed under a continuing contract or contracts with Tandy Corp. and its Radio Shack division, for 180 days. Supporting shipper: Radio Shack, division of Tandy Corp., 1000 No. 1 Tandy Center, Fort Worth, Tex. 76102. Send protests to: Robert J. Kir-spel, District Supervisor, room 8A07 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 141694 (Sub-No. 2TA), filed October 26, 1977. Applicant: HARCO CARRIERS, INC., 1808 Ford Road, Minnetonka, Minn. 55343. Applicant’s

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representative: John B. Van De North, Jr., 2200 First National Bank Building, St. Paul, Minn. 55101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: coal or wood burning sheet steel fireplaces, knocked down, in boxes or crates, from the plantsite and warehouse facilities of Plywood Minnesota, Inc., located at or near Fargo, N. Dak.; Des Moines, Dubuque, Mason City, Iowa; Omaha, Neb.; Franklin Park Mount Prospect, Chicago, Waukegan, Posen, Ill.; Hammond, Ind.; Sheboygan, Washburn, Wis.; and St. Cloud, Rochester, Duluth, Fridley, Golden Valley, Bloomington, St. Paul Minn., for 180 days. Supporting shippers: Kate-To Minnesota (a subsidiary of Kate-To Ceramics, Inc.), 6750 West Broadway, Minneapolis, Minn. 55428. Send protests to: A. N. Speth, District Supervisor, Interstate Commerce Commission, 26 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.


No. MC 143127 (Sub-No. 4TA); filed November 11, 1977. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, P. O. Box 9764, Rochester, N. Y. 14623. Applicant's representative: S. Michael Richards, Raymond A. Richards, P. O. Box 225, 44 North Avenue, Webster, N. Y. 14580. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned goods, (except frozen and in bulk), from Princeville and Hoopeston, Ill., to New Haven, New York, Ohio, and Pennsylvania, for 180 days. Supporting shipper: Joan of Arc Co., Inc., 2231 West Altorfer Drive, Peoria, Ill. 61614. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commissioner, U.S. Courthouse and Federal Building, 100 South Clinton Street, room 1259, Chicago, Ill. 60603.

No. MC 143160 (Sub-No. 1TA), filed November 4, 1977. Applicant: JERRY INMAN TRUCKING, INC., route 2, Box 43-A, Mounds, Okla. 74407. Applicant's representative: Wilburn L. Wilkinson, 280 National Foundation Life Building, 555 N. West Street, Oklahoma City, Okla. 73122. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Synthetic yarn, from the facilities of Mid-America Yarn Mills, Inc., located at or near Pryor, Okla., to points in California within 100 miles of Los Angeles, Calif., under a continuing contract or contracts with Mid-America Yarn Mills, Inc., for 180 days. Supporting shippers: Mid-America Yarn Mills, Inc., P. O. Box 1028, Pryor, Okla. 74361. Send protests to: John Green, District Supervisor, room 240, Old Post Office and Custom House, 1 Southeast 3d, Oklahoma City, Okla. 73102.

No. MC 143279 (Sub-No. 1TA), filed November 8, 1977. Applicant: SHEETS TRUCKING COMPANY, INC., 128 South Mine LaMotte, Fredericktown, Mo. 63945. Applicant's representative: Andrew S. Chisholm, Traffic Manager. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber, wood products, and wood pallets, from all points in Madison and Wayne Counties, Mo., to all points in Illinois, Indiana, Iowa, Michigan, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Authority, in effect, sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Bricks, firebricks, flue lining, concrete lintels, concrete blocks, patio block, and splash blocks, from the facilities of Betco Block and Products, Inc., at Bethesda and Gaithersburg, Md., to the site of the Hechinger's Store at Newmarket, Va., under a continuing contract or contracts with Betco Block and Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Weyerhaeuser Co., 201 Dexter Street, Chesapeake, Va. 23324. Attn: Gordon T. Adams, General Transportation Manager, Plywood Panels, Inc., P. O. Box 12576, Norfolk, Va. 23502. Attn: Andrew S. Chisholm, Traffic Manager. Send protests to: Morris H. Gross, District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 425 Federal Building, 55 Pleasant Street, Concord, N. H. 03301.

No. MC 143703 (Sub-No. 1TA), filed October 31, 1977. Applicant: HAMMOND MOVING & STORAGE, INC., 300 West King Street, Cocoa, Fla. 32922. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D. C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Used houseold goods, between points in Broward, Osceola, and Orange Counties, Fla., 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 packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 120 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: _Inc., located in Norfolk, Va., and its commercial zone, to points in the District of Columbia, Maryland, New York, New Jersey, Pennsylvania, Rhode Island, Delaware, Connecticut, Massachusetts, Vermont, New Hampshire, and Maine, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Weyer­ haeuser Co., 201 Dexter Street, Chesapeake, Va. 23324. Attn: Gordon T. Adams, General Transportation Manager, Plywood Panels, Inc., P. O. Box 12576, Norfolk, Va. 23502. Attn: Andrew S. Chisholm, Traffic Manager. Send protests to: Morris H. Gross, District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 425 Federal Building, 55 Pleasant Street, Concord, N. H. 03301.
Los Angeles, Calif. 90042. (3) Intercontinental Export Ltd. 7585 Twist Lane, Springfield, Va. 22150. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1100 South Capitol Street, S.W., Washington, D.C. 20555. Applicant's representative: William B. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: Dry sulphur, from the facilities of Agri-Sul, Inc., at or near Minneola, Tex., to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, and Wisconsin, for 180 days. Supporting shipper(s): Agri-Sul, Inc., P.O. Drawer 629, Mineola, Tex. 75773. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 1312, Dallas, Texas 75242.


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62701. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Malt beverages, for the account of Venegoni Distributing, Inc., from the facilities of Anheuser-Busch, Inc., at St. Louis, Mo., to Murphyboro, Ill., and (2) malt beverages, for the account of Halliday Distributing Co., Inc., from the facilities of Anheuser-Busch, Inc., at St. Louis, Mo., to Cairo, Ill., under a continuing contract, or contracts, with Venegoni Distributing, Inc., and Halliday Distributing Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Alice B. Kortkamp, President, Venegoni Distributing, Inc., 550 North 19th Street, Murphyboro, Ill. 62866; James P. Smith, President, Halliday Distributing Co., Inc., First & Halliday Avenue, Cairo, Ill. Send protests to: District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Ill. 62701.

No. MC 143970TA, filed November 14, 1977. Applicant: GARY PFEIL, 3711 Singleton Boulevard, Dallas, Tex. 75212. Applicant’s representative: Gary Pfeil (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Roofing materials, from Dallas, Tex., to Stroud, Okla., and from Stroud, Okla., to Dallas, Tex., under a continuing contract or contracts, with Pfefl & Sons, for 180 days. Supporting shipper: Pfefl & Sons, 3711 Singleton Boulevard, Dallas, Tex. 75212. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, room 13C12, Dallas, Tex. 75242.

Passenger Application


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By the Commission.

H. G. Homme, Jr., Acting Secretary.

[FR Doc. 77-35655 Filed 12-13-77; 8:45 am]

[7035-01] [Ex Parte No. MC-101]

INITIAL PROCESSING OF MOTOR CARRIER FINANCE PROCEEDINGS

Notice and Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Revised notice and policy statement.

SUMMARY: The Commission announces that it will, beginning immediately, more rigidly impose observance of rules 4(c) and 36 of its general rules of practice. The notice, dated June 13, 1977, and published at 42 FR on p. 36209, June 27, 1977, is superseded and the proceeding is discontinued.

SUPPLEMENTARY INFORMATION: At a general session of the Interstate Commerce Commission, held at its office at Washington, D.C., on the 28th day of November, 1977.

On June 13, 1977, the Commission entered a notice and policy statement (statement) in this proceeding, expressly intending the contained provisions to eliminate the delay which results from the filing of incomplete finance applications. The notice provided a period for the submission of comments and a date on which enforcement of strict compliance with its provisions would begin; orders subsequently entered extended the comment period and postponed the initial date of enforcement.

The Commission received a number of comments in response to the statement, all reflecting well-founded anticipation of the effect the proposed provisions would have upon applications for temporary authority under section 210a(b) of the Interstate Commerce Act (Act), 49 U.S.C. § 310a(b). Recognizing that an application under section 5 of the Act, 49 U.S.C. § 5, or under other provisions, must be on file with the appropriate Commission’s Office of Small Business Assistance. The Commission’s Office of Small Business Assistance. The Commission’s Office of Small Business Assistance. The Commission’s Office of Small Business Assistance.
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MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS


The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1121.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information. Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 720 (Sub-No. 40TA), filed November 7, 1977. Applicant: BIRD TRUCKING CO., INC., P.O. Box 227, Waupun, Wis. 53968. Applicant's representative: Michael J. Wyngaard, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned goods and artificial sweetener, from Brownsville, Wis., to points in the District of Columbia, Georgia, Florida, Kansas, Kentucky, Minnesota, New York, Maryland, New Jersey, Pennsylvania, Texas, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Del Monte, P.O. Box 1237, Fond du Lac, Wis. (Charles Augustine). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, 26001 Commerce Building, St. Paul, Minn. 55101.

No. MC 725 (Sub-No. 23TA), filed November 7, 1977. Applicant: PEELKA TRUCKING CO., d.b.a. WAGGONERS, P.O. Box 900, Livingston, Mont. 59047. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Foodstuffs (except frozen), from the plant sites and facilities utilized by Del Monte Corp., at or near Rochelle, Mendota, and DeKalb, Ill.; Plover, Markesan, Waupun, Wis., and from La Crosse, Wis., to points in Indiana, Illinois, Iowa, Kentucky, Michigan, Minnesota, Ohio, West Virginia, Wisconsin, New York, Pennsylvania, Missouri, and New Jersey. (2) Freight in the destinations named in (1) above, to the origin points named in (1) above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Richard Vargen, Division Shipping Traffic Manager, Del Monte Corp., 15th Street, Rochelle, Ill. 61068. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.


No. MC 78400 (Sub-No. 55TA), filed November 8, 1977. Applicant: BEAUFORT TRANSFER CO., P.O. Box 151, Gerald, Mo. 63037. Applicant's representative: Ernest W. Cull, Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Apparel of cotton, hemp, from Rolo, Mo., to points in Arkansas, Colorado, Idaho, Illinois, Iowa, Indiana, Kentucky, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Mexico, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Bow Wow Co., P.O. Box 336, Rollo, Mo. 65450. Send protests to: J. P. Wothmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 105501 (Sub-No. 25TA), filed November 9, 1977. Applicant: TERMINAL WAREHOUSE CO., d.b.a. THE WAGGONERS, P.O. Box 900, Livingston, Mont. 59047. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles, between St. Paul, Minn., and LaCrosse, Wis., restricted to traffic originating at Paper Calmenson & Co., at St. Paul, Minn., and LaCrosse, Wis., and from LaCrosse, Wis., originating at the facility of Paper Calmenson & Co., to Fargo, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Paper Calmenson and Co., P.O. Box 3432, St. Paul, Minn. 55165. Send protests to: Marion L. Cheney, District Supervisor, Interstate Commerce Commission, 26001 Constitution Avenue NW. Room 1413, Washington, D.C. 20423.

No. MC 105506 (Sub-No. 154TA), filed November 15, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1720, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas R. Kilroy, 6901 Old Keene Mill Road, Suite 406, Executive Building, Springfield, Mo. 65801. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plastic materials other than expanded group, plastic granules, plastic pellets, proprietary anti-freeze preparations (except in bulk, in tank vehicles), from Mapleton and Mount Morris, Ill., to points in Illinois, Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Sup-

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No. MC 108074 (Sub-No. 49TA), filed October 31, 1977. Applicant: B AND F MOTOR LINES, INC., P.O. Box 727, Forest City, N.C. 28043. Applicant’s representative: George W. Clapp, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Mechanic parts and lubricating oils, in bulk, in tank vehicles, from point in Missouri for 180 days. Application has also filed an underlying ETA seeking to go to 90 days of operating authority. Supporting shipper(s): Chi-quita Fruit Co., 212 Veal Street, Beaumont, Texas, and Metaire, La. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., room 300, Atlanta, Ga. 30308.


No. MC 112595 (Sub-No. 72TA), filed October 26, 1977. Applicant: FORD BROTHERS, INC., 510 Riverside, Coal Grove, P.O. Box 727, Ironton, Ohio 45638. Applicant’s representative: W. E. Davis, P.O. Box 727, Ironton, Ohio 45638. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Rolling processing fluids, lubricants and lubricating oils, in bulk, in tank vehicles, from the plant sites of the Ironsides Co. at Columbus, Ohio, to points in Arkansas, Iowa, Missouri, Nebraska, and Texas, and (2) ingredients and raw materials, used in the manufacture of rolling processing fluids, wire drawing compounds and lubricating oils, in bulk, in tank vehicles, from the plant sites of the Ironsides Co. at Columbus, Ohio, to points in Arkansas, Iowa, Missouri, Nebraska, and Texas, and (3) ingredients and raw materials, used in the manufacture of rolling processing fluids, wire drawing compounds and lubricating oils, in bulk, in tank vehicles, from points in Arkansas, Georgia, Indiana, Iowa, Louisiana, Missouri, Nebraska, Pennsylvania, Tennessee, Texas, Virginia, Elkridge, Maryland, and Austin, Minnesota, to the plantsite of the Ironsides Co. at Columbus, Ohio, for 180 days. Application has also filed an underlying ETA seeking to go to 90 days of operating authority. Supporting shipper(s): John H. Jaspers, Traffic Manager, the Ironsides Co., 270 West Mound Street, P.O. Box 1999, Columbus, Ohio 43216. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Building, 529 National Press Building, Washington, D.C. 20555.

No. MC 113267 (Sub-No. 354TA), filed October 31, 1977. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Road, P.O. Box 30130 AMP, Memphis, Tenn. 38117. Applicant’s representative: Lawrence A. Fischer, 3215 Tulane Road, P.O. Box 30130 AMP, Memphis, Tenn. 38117. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Mechanic parts and lubricating oils, in tank vehicles, from point in Alabama, for 180 days. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, Illinois 60690. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, Tenn. 38103.
States in and east of Alabama, Illinois, Missouri, Tennessee, Minnesota, and Wisconsin, to the facilities of Coast-to-Coast Stores Central Organization, Inc., located at or near Springfield, Oreg., restricted to traffic destined to the facilities of Coast-to-Coast Stores Central Organization, Inc., located at Crawfordsville, Ind., Kansas City, Mo., Brookings, S. Dak., and Springfield, Oreg., for 180 days. Supporting shipper(s): Coast to Coast Stores, 10801 Red Circle Drive, Minnetonka, Minn. 55343. Send protests to: C. F. Myers, District Supervisor, Interstate Commerce Commission, Box 869, Federal Square Station, Harrisburg, Pa. 17108.

No. MC 115841 (Sub-No. 573TA), filed November 16, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, Tenn. 37919. Applicant's representative: John Labriola, General Transportation Assistant, Interstate Commerce Commission, 10380 Evendale Drive, P.O. Box 15010, Cincinnati, Ohio 45215. Applicant does not intend to tack or interline authority. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting:

No. MC 119398 (Sub-No. 72TA), filed October 28, 1977. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, Mo. 64801. Applicant's representative: John C. Spencer (same address as applicant). Application sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting:

No. MC 124078 (Sub-No. 761TA), filed November 7, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting:

No. MC 125777 (Sub-No. 202TA), filed November 15, 1977. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting:

No. MC 128326 (Sub-No. 27TA), filed November 4, 1977. Applicant: CHEMI-CAL TANK LINES, INC., Highway 60 West, P.O. Box 432, Mulberry, Fla. 33860. Applicant's representative: Keith Alexander, Highland 60 West, P.O. Drawer 437, Mulberry, Fla. 33860. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting:

No. MC 13356 (Sub-No. 95TA), filed November 2, 1977. Applicant: GANG-
LOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant’s representative: Charles W. Beinhauer, One World Trade Center, Suite 4959, New York, N.Y. 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Non-frozen foodstuffs, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Duffy-Mott Co., at or near Hamlin and Williamson, N.Y., to points in the States of Michigan, Indiana, Illinois, Iowa, Nebraska, Minnesota, Wisconsin, Colorado, and Kentucky, restricted to traffic originating in the area as defined by the Interstate Commerce Commission, 147 Federal Courthouse, 444 Southeast Quincy, Topeka, Kans. 66663.

No. MC 141914 (Sub-No. 28 TA), filed October 26, 1977. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, Okla. 74332. Applicant’s representative: Kathrena J. Franks, Route 1, Box 108A, Big Cabin, Okla. 74332. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Floor coverings (except carpeting and rugs), and the advertisements used in the installation thereof, from the International Boundary Line between the United States and Canada located at or near Champlain, N.Y., to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the plantsite and storage facilities of Domco Industries Ltd., at or near Farnham, Quebec, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Domco Industries Ltd., 1001 Yamaska Street East, Farnham, Quebec, Canada. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 143460 (Sub-No. 17 TA), filed November 2, 1977. Applicant: B.A.L. TRANSFER, INC., 7926 E. Baltimore Street, Baltimore, Md. 21224. Applicant’s representative: William L. Hughes, District Supervisor, Interstate Commerce Commission, Suite 1212, W. R. Grace Building, Baltimore, Md. 21202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Containers, container chassis, and trailers, and (2) general commodities (except commodities of unusual value, commodities requiring special equipment, and commodities in bulk), from points and places in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the plantsite and storage facilities of Domco Industries Ltd., 1001 Yamaska Street East, Farnham, Quebec, Canada. Send protests to: J. H. Gray, District Supervisor, Interstate Commercial Zone and Terminal Test, 240 Old Post Office and Court House Building, 215 Northwest 3rd, Oklahoma City, Okla. 73102.
MEYER, d.b.a. MEYER TRANSFER & STORAGE CO., 703 Dumont Street, P.O. Box 87, South Houston, Tex. 77587. Applicant's representative: B. J. Honeycutt (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods as defined by the Commission, between points in Harris, Montgomery, Brazoria, Waller, Liberty, Chambers, Jefferson, Hardin, Tyler, Polk, San Jacinto, Walker, Trinity, Houston, Leon, Madison, Austin, Colorado, Wharton, Jackson, and Matagorda Counties, Texas, restricted to the transportation of shipments having a prior or subsequent movement in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization, or the unpacking, uncrating, or decontainerization of household goods, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Building, 515 Rusk Avenue, Houston, Tex. 77002.

No. MC 143899TA, filed October 21, 1977. Applicant: MAHLON SAUNDERS, d.b.a. SAUNDERS TRUCKING, 2715 Howbert Street, Colorado Springs, Colo. 80904. Applicant's representative: Raymond M. Kelley, 450 Capitol Life Center, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Nonalcoholic beverages in containers, (2) pallets, (3) glass bottles; (1) from the facilities of Columbine Beverage Co. in Denver, Colo., to Phoenix, Ariz., Albuquerque, N. Mex., Las Vegas, Nev., Amarillo, Tex., El Paso, Tex., Salt Lake City, Utah, (2) from Albuquerque, N. Mex., Amarillo, Tex., and El Paso, Tex., to Muskogee, Okla., and Sapulpa, Okla., (3) from Muskogee, Okla., and Sapulpa, Okla., to the facilities of Columbine Beverage Co., in Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Columbine Beverage Co., 4901 Broadway, Denver, Colo. 80216. Send protests to: District Supervisor, Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 143932TA, filed November 1, 1977. Applicant: JUSTIN TRANS- PORT, INC., P.O. Box 19251, 2100 Ten Main Center, Kansas City, Mo. 64114. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Such commodities and equipment as are dealt in and sold or utilized by retail discount department stores in the conduct of their business, between the warehouse of Wal Mart Stores, Inc., located in Dallas, Tex., on the one hand, and, on the other, the warehouses of Wal Mart Stores, Inc., located in Kansas City and St. Louis, Mo., Memphis, Tenn.; Little Rock, Ark.; and Tulsa, Okla., and from the warehouse of Wal Mart Stores, Inc., located in Dallas, Texas, to Wal Mart Stores in Arkansas, Louisiana, Oklahoma, and Texas, under a continuing contract or contracts with Wal Mart Stores, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wal Mart Stores, Inc., P.O. Box 116, Bentonville, Ark. 72712. Send protests to: Opal M. Jaskiewicz, Edward J. Kiley, 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: Objects of art and such commodities as are displayed by museums and art galleries, between Washington, D.C.; El Paso and San Antonio, Tex.; Los Angeles and San Francisco, Calif.; Colorado Springs and Denver, Colo.; Syracuse and New York, N.Y., for 180 days. Supporting shipper: Fondo del Sol, 2112 R Street NW., Washington, D.C. 20003. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 1100 Commerce Street, room 13C12, Dallas, Tex. 75242.


No. MC 143946TA, filed November 7, 1977. Applicant: ROYAL TRANSPORT, INC., P.O. Box 4097, Irving, Tex. 75061. Applicant's representative: Don Garrison, 524 North Second Street, Russellville, Ky. 42216. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Electrical appliances, equipment, and parts, as defined by the Commission in descriptions in motor carrier certificates, 51 MCC 283, appendix VII, from the plants and warehouse facilities of Gibson-Metalux Corp., at or near Americus, Ga., to points in the United States (except Alaska, Florida, Georgia, and Hawaii), for 180 days. Supporting shipper(s): Gibson-Metalux Corp., P.O. Box 1207, Americus, Ga. 31709. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, room 13C12, Dallas, Tex. 75242.

No. MC 143948TA, filed November 7, 1977. Applicant: VASTA & SON, INC., 4 Chadwick Court, Amityville, N.Y. 11701. Applicant's representative: Jessel - Rothman, 170 Old Country Road, Mineola, N.Y. 11501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Goods and merchandise as dealt in the garment industry, i.e., ladies' knitwear, sweaters, and T-shirts, from LaGuardia Airport, N.Y.; J. F. Kennedy International Airport, Jamaica, N.Y.; Secaucus, N.J., dock, on the one hand, and, on the other, to Boston, Mass., under a continuing contract or contracts with Jodi International, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jodi International, Inc., 507 Seventh Avenue, New York, N.Y. 10019. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 429 Post Office Building, Louisville, Ky. 40202.

No. MC 143951TA, filed November 4, 1977. Applicant: WESTCO TRUCKING, INC., P.O. Box 4097, Irving, Tex. 75061. Applicant's representative: Norbert B. Flick, 715 Executive Building, Cincinnati, Ohio 45202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Salt and salt products, from the facilities of Cargill, Inc., at or near Clarksville, Ind., to points in Kentucky and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. John Labriola, General Transportation manager, Cargill, Inc., Salt Department No. 21, P.O. Box 19251, 2100 Ten Main Center, Brooklyn, N.Y. 11228. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 429 Post Office Building, Louisville, Ky. 40202.

No. MC 143963TA, filed November 11, 1977. Applicant: P. J. LOMBARDI TRUCKING, INC., 1306 1st Street, Brookville, N.Y. 11719. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, Hagerstown, Md. 21740. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Electrical conduit fasteners and fittings, materials, supplies, and equipment used in the manufacture thereof, between Farmingdale, N.Y.; Chicago, Ill.; Denver, Colo.; Sacramento, Calif.; Dallas, Tex.; and Seattle, Wash., and their respective commercial zones, under a
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continuing contract, or contracts, with Gould, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gould, Inc., East Farmingdale, N.Y. Send protests to: Maria B. Kreis, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 143978TA, filed November 14, 1977. Applicant: EMERSON DELIVERY, INC., 307-12th Street SE., Cedar Rapids, Iowa 52401. Applicant’s representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Printed materials, in express service, between the facilities of Stamats Publishing Co. at Cedar Rapids, Iowa, on the one hand, and on the other points in the states of Illinois, Minnesota, Nebraska, the facilities of Interstate Bookbinders in Kansas City, Mo., and the facilities of Cooke-Berger Embossing Co., at Chicago, Ill., under a continuing contract, or contracts, with Stamats of Cedar Rapids, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stamats Publishing Co., 427 Sixth Avenue SE., Cedar Rapids, Iowa 52401. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143997TA, filed November 14, 1977. Applicant: BEATTERE STATE MOVING & STORAGE, INC., P.O. Box 1007, 33905 Southeast Eastgate Circle, Corvallis, Oreg. 97330. Applicant’s representative: George J. Moskoftsky (same address as applicant). Applicant seeks to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, restricted to the transportation of traffic having a prior or subsequent movement, in containers beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, in Linn, Benton, Lincoln, and Lane Counties, Oreg., for 180 days. Supporting shipper(s): Base Procurement Office, Department of the Air Force, Kingsley Field, Oreg. 97401. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.


No. MC 135567 (Sub-No. 3TA), filed October 27, 1977. Applicant: VIRGINIA STAGE LINES, INC., 114 Fourth Street SE, Charlottesville, Va. 22901. Applicant’s representative: George W. Hanthorn, 1500 Jackson Street, Dallas, Tex. 75201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Passengers and their baggage, between Portsmouth, Lucasville, Clifford, Piketon, Waverly, Lima, Euclid, Hingby, Renick, Chillicothe, Deeran, Kingston, Dorney, Circleville, Ritts, Ashville, Duville, Miner, Valley Crossing, Columbus, Bannom, Wrichton, Lewis, Center, Delaware, Fruyon, Waldo, Marion, Harvey, Monnett, Bucyrus, Ridgetown, Chatfield, Corrothers, Attica, Frank, Flat Rock, Bellevue, and Sandusky, Ohio, restricted as follows: (1) Restricted to the transportation of employees of the Norfolk & Western Railway Co., and (2) restricted to the transportation of passengers or their baggage to points in West Virginia or Virginia, under a continuing contract, or contracts, with Norfolk & Western Railway Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Norfolk & Western Railway Co., Roanoke, Va. 24042. Send protests to: W. C. Hershman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., room 1413, Washington, D.C. 20423.

By the Commission.

H. G. HOMME, Jr., Acting Secretary.
[FR Doc. 77-35654 Filed 12-13-77; 8:45 am]

[7035-01]
(No. MC-C-9873)

INTERPRETATION OF AGGREGATED COMMODITIES SERVICE CLASSIFICATION

Petition for Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of petition for declaratory order.

SUMMARY: The captioned proceeding poses the question of whether palletized nails are, or should be, subject to transportation with in the scope of heavy-hauler authority. Comments are requested concerning public or industry custom, usage and practice as to the aggregating, palletizing, and shipping of nails. In addition, views and expressions are invited with respect to the broad question of whether innovations in the manufacturing industry, have resulted in packaging becoming so inextricably intertwined with the production and distribution process, that in the determination of whether aggregated commodities properly are embraced within heavy hauler authority, consideration should be given to factors not previously considered, or considered prior to recent innovations.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTAL INFORMATION:

Reisfeld & Co., Inc., of New Orleans, La., is a manufacturer of nails which are aggregated for storage and shipping. It initiated this proceeding seeking a specific finding that palletized

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nails may lawfully be transported within the scope of heavy-hauler authorities. It states that the commodity it needs to have transported is dissimilar to the aluminum conduit which was found to be outside the scope of heavy-hauler authority in Ace Doran Hauling & Rigging, Ext.—Multiple States, 119 M.C.C. 40 (1973), and it asserts that the nature of the palletized nails warrants a contrary decision.

Because factors which heretofore were dispositive in the determination of whether or not aggregated commodities were within the scope of heavy and specialized hauler authority, may be, in light of technological innovations and improvements, industry practice or custom too limited or no longer valid, manufacturers, carriers, and interested members of the public should be afforded an opportunity to present their views on this service classification question.

Oral hearings do not appear necessary at this time, and none is contemplated with regard to the issue described in this notice; wishing to participate in the development of the record herein may, however, do so by the submission of written data, views, or arguments. An original (and 11 copies whenever possible) of such submissions shall be filed with this Commission on or before January 13, 1977. All written submissions will be available for public inspection during regular business hours at the offices in the Interstate Commerce Commission, 12th Street and Constitution Ave., NW., Washington, D.C. 20423.

This notice is issued under authority of sections 553 and 554 of the Administrative Procedure Act (5 U.S.C. 553 and 554), and sections 204, and 207 of the Interstate Commerce Act (49 U.S.C. 304, and 307).

H. G. Homme, Jr.,
Acting Secretary.

[PR Doc. 77-35696 Filed 12-13-77, 8:45 am]

NOTICE

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS


The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specify the number of the "Sub-No.", and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 36065 (Sub-No. 162TA) (second correction), filed September 28, 1977, published in the Federal Register issue of October 19, 1977, and republished November 30, 1977, and republished again as corrected this issue. Applicant: THE SANTA FE TRAIL TRANSPORTATION CO., P.O. Box 56, Wichita, Kans. 67202. Applicant's representative: Silver, Rosen, Fischer & Stecher, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission), commodities in bulk, and articles requiring special equipment, between Houston, Tex., and Dallas, Tex., via Interstate Highway 45 to Dallas, and return via the same route, serving no intermediate points, for 180 days. Applicant intends to tack on to the above authority, serving Amalia, N. Mex., as an off-route point in connection with carrier's authorized regular routes. Applicant will tack. Supporting shipper(s): Amalia Lumber Co., P.O. Box 25067, Albuquerque, N. Mex. 87125. Send protests to: Deputy Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 46737 (Sub-No. 53TA), filed November 8, 1977. Applicant: GEORGE F. ALGER CO., 26380 Van Born Road, Dearborn Heights, Mich. 48125. Applicant's representative: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202. The purpose of this republication is to state applicant's intended packing and interlining as stated above.

No. MC 48958 (Sub-No. 143TA), filed October 28, 1977. Applicant: ILLINOIS-CALIFORNIA TRANSPORTING & RIGGING CO., 510 East 51st Avenue, P.O. Box 18404, Denver, Colo. 80216. Applicant's representative: Lee E. Luceo (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except Class A and B explosives, household goods as defined by the Commission), commodities in bulk, articles of unusual value, and articles requiring special equipment), serving Amalia, N. Mex., as an off-route point in connection with carrier's authorized regular routes. Applicant will tack. Supporting shipper(s): Amalia Lumber Co., P.O. Box 25067, Albuquerque, N. Mex. 87125. Send protests to: Deputy Secretary, Interstate Commerce Commission, 492 U.S. Customs House, Denver, Colo. 80226.

No. MC 48959 (Sub-No. 144TA), filed November 2, 1977. Applicant: TOWER LINES, INC., 3d and Warwood Avenue, P.O. Box 8010, Wheeling, W. Va. 26003. Applicant's representative: James R. Stevick, 3d and Warwood Avenue, Wheeling, W. Va. 26003. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Insulating, and insulating materials (except in bulk, in tank vehicles), from Florence, S.C. to points in the States of Ohio, Pennsylvania on and west of U.S. Highway 218, and West Virginia, restricted to shipment destined to the warehouse facilities, job sites and customers of Pepco Insulation, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper(s): Pepco Insulation, Inc., 222 Fulton Street, Wheeling, W. Va. 26003.
Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 82841 (Sub-No. 216TA), filed November 4, 1977. Applicant: HUNT TRUCKING CO., 4705 Broad, Omaha, Nebr. 68127. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Bulk material, handling equipment, parts, and components, from St. Joseph, Mo., to points in Montana, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, Iowa, Arkansas, Louisiana, Mississippi, Alabama, Tennessee, Illinois, Wisconsin, Indiana, Michigan, Ohio, Pennsylvania, New York, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, and Kentucky, for 180 days. Supporting shipper(s): B. J. Hinterlong, General Sales Manager, Continental Screw Division, Hoover Ball and Bearing Co., 4343 Easton Road, St. Joseph, Mo. 64503. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, suite 100, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 99708 (Sub-No. 20TA), filed November 8, 1977. Applicant: DODDS TRUCK LINE, INC., 623 Lincoln, U.S. Highway 63 North, West Plains, Mo. 65775. Applicant's representative: Warren T. Taylor, Jr., 1231 St. Paul Avenue, Suite 600, Kansas City, Mo. 64105. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Onions, from Lanton, Howell County, Mo., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nuibin Ridge Charcoal Co., Lanton Route Box 39, West Plains, Mo. 65775. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 107002 (Sub-No. 521TA), filed November 9, 2977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: Edward H. Redmond, P.O. Box 1123, Jackson, Miss. 39205. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Pre-cut log buildings, knocked down, and materials and supplies used in the construction of such commodities, from the facilities of Beaver Log Homes of Florida Ltd. at or near Blountstown, Fla., to points in Alabama, Arkansas, Louisiana, and east of Minnesota, Iowa, Illinois, Kentucky, Tennessee, and Mississippi, for 180 days. Supporting shipper(s): Beaver Log Homes of Florida, P.O. Box 458, Blountstown, Fla. 32424. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 110391 (Sub-No. 1TA), filed November 3, 1977. Applicant: CHERT A. DEYOUNG AND KAREN M. DEYOUNG, d.b.a. DEYOUNG TRANSFER & STORAGE CO., 214 East Park Street, Livingston, Mont. 59047. Applicant's representative: Chester A. DeYoung, 214 East Park Street, Livingston, Mont. 59047. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except commodities which because of weight and size require special equipment) between Wilsall, Mont. and Mammoth Hot Springs, Yellowstone National Park, Wyo., over U.S. Highway 89, serving all intermediate points and the off-route point of Chico Hot Springs, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Paul J. Labane, Manager, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 113170 (Sub-No. 6TA), filed October 28, 1977. Applicant: PEET FRATE LINE, INC., 1315 S. Route 47, P.O. Box 529, Woodstock, Ill. 60098. Applicant's representative: William J. Cohn, 1 North La Salle Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food cookers and parts thereof, and foodstuffs, food seasoning, food flavoring and materials, supplies and accessories used or useful in the manufacture, distribution, shipping, and sale thereof, between the plantsite and facilities of Broaster Co. at Beloit, Wis. on the one hand and, on the other points in the Chicago, Ill. Commercial Zone, as defined by the Commission, and points in Illinois within 50 miles of Marengo, Ill., including Marengo, for 180 days. Supporting shipper(s): Broaster Co., Donald H. Johnson, Pier Manager, Dilliman & Watts Street, Rockton, Ill. 61072. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg, 219 S. Dearborn Street, room 1386, Chicago, Ill. 60604.

No. MC 113271 (Sub-No. 40TA), filed November 8, 1977. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, Mont. 59401. Applicant's representative: Ray F. Koby, 314 Montanta Bldg., Great Falls, Mont. 59401. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Concentrated herbicide, in bulk, in tank vehicles, from Great Falls, Mont., to Denver, Colorado, Omaha, Nebraska, and Kansas City, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Blaine W. LeSuer, Operations Manager, Tri-Chem, Inc., P.O. Box 6323, Great Falls, Mont. 59408. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 114646 (Sub-No. 15TA), filed November 11, 1977. Applicant: JEFFERSON TRUCKING COMPANY, P.O. Box 17, South National City Road, National City, Mich. 48164. Applicant's representative: William R. Elmer, 21635 E. Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Gypsum wallboard and accessories, between the plantsite of Gold Bond Building Products Division of National Gypsum Co., at or near Savannah, Ga., and the facilities of Liberty Homes at Dorchester, S.C., under continuing contract or contracts, with Gold Bond Building Products Division of National Gypsum Co., for 180 days. Applicant has also...

No. MC 115058 (Sub-No. 19TA), filed November 8, 1977. Applicant: LANE motor vehicle, over irregular routes, to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wooden boxes, box shooks, and wooden pallets, from points in Stokes County, N.C., to points in Connecticut, for 180 days. Applicant's representative: Robert W. Pavey, P.O. Box 455, King, N.C. 27021. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Jersey Ave. NW., P.O. Box 28696, Raleigh, N.C. 27611.

No. MC 115469 (Sub-No. 71TA), filed November 8, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Highway 23 South, Cochran, Ga. 31014. Applicant's representative: Virginia H. Spurlock, 1100 South Floury Court, Rocky Mount, N.C. 27801. Applicant's representative: Thomas L. Young, 131 N. Church Street, Rocky Mount, N.C. 27801. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Flat glass, from the facilities of PPG Industries, Inc., at or near Wichita Falls, Tex., to points in Calif., for 180 days. Carrier does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fortis Corp., Box 111, Highway 23 South, Cochran, Ga. 31014. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 600 Federal Building, 911 19th St. NW., Washington, D.C. 20423. Also filed an underlying ET4 seeking up to 90 days of operating authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ace Wallboard Ltd., 116 North Granger Street, Elkhart, Ind., to points in Illinois, Kentucky, Michigan, Missouri, New York, Ohio, Pennsylvania, Tennessee, and West Virginia, for 180 days. Applicant's representative: Paul F. Beery Co., 275 East State Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Insulating materials, mineral wool, and fiberglass, from the plant site of Johns Manville Sales Corp. at Elkhart, Ind., to points in Illinois, Kentucky, Michigan, Missouri, New York, Ohio, Pennsylvania, Tennessee, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johns Manville Sales Corp., 2222 Kensington Court, Oakbrook, III. 60521. Send protests to: Kevin D. Barnard, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 119493 (Sub-No. 167TA), filed November 2, 1977. Applicant: FREIGHTWAY CORP., 131 Matzinger Road, Toledo, Ohio 43612. Applicant's representative: Paul P. Beery Co., 275 East State Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Animal and poultry feed, from San Antonio, Tex., to points in all of the United States and Canada located in immediate prior movement in foreign commerce, in through local single line service, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Conagra, Inc., 83401. Ace Wallboard Ltd., 116 North Granger Street, Elkhart, Ind., to points in Illinois, Kentucky, Michigan, Missouri, New York, Ohio, Pennsylvania, Tennessee, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Whee-Go Supply Corp., Idaho Falls, Idaho 83401. Ace Wallboard Ltd., 116 Hanson, Iona, Idaho 83427. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 280 Kiewit Plaza, Omaha, Nebr. 68131. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 90 Federal Building, 411 Walnut Street, Kansas City, Mo. 64106.

No. MC 119789 (Sub-No. 383TA), filed November 1, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6183, Dallas, Tex. Applicant's representative: James K. Newbold, Jr., P.O. Box 6186, Dallas, Tex. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Milk beverages and related advertising material, from San Antonio, Tex., to all of Alabama, Florida, Georgia, Louisiana, North Carolina, and South Carolina, for 180 days.

Note.—Carrier lists some 98 representative destination cities in the above listed states on an appendix to application.

Supporting shipper(s): Pearl Brewing Co., 38012 Pearl, N. Y. 14611. San Antonio, Tex. 78226. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 123233 (Sub-No. 187TA), filed November 3, 1977. Applicant: AMERICAN VEST VOST CARTAGE, INC., 7887 Grenville Avenue, Ville D'Anjou, Quebec, Canada. Applicant's representative: J. V. Vermette (same address as applicant.) Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid sugar, in bulk, in tank vehicles, from the ports of entry on the International Boundary Line between the United States and Canada located in the following states: New York, Vermont, and Maine, to all points in Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, New York, and Pennsylvania, restricted to traffic having an immediate prior movement in foreign commerce, in through local single line service, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): St. Lawrence Sugar, Division of Sucromel Ltd., 4028 Notre-Dame Street East, Montreal, Quebec, Canada. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, 548, 87 State Street, Montpelier, VT. 05602.

No. MC 124003 (Sub-No. 37TA), filed November 8, 1977. Applicant: DAVIS MOVING & STORAGE, INC., P.O. Box 754, County Road, Elkhart, Ind. 46514. Applicant's representative: Alki E. Scopeitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Materials, from the federal district court in the District of New Mexico, to points in Arizona, New Mexico, and Texas, for 180 days. Applicant's representative: Overall, County Road, Elkhart, Ind. 46514.
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equipment, supplies, fixtures, and appliances used in the manufacture, assembly, and furnishing of manufactured housing and recreational vehicles, from the facilities of Days Moving & Storage, Inc., of Elkhart, Ind., to St. Joseph and Cass Counties, Mich., for 180 days. Supporting shipper(s): The Tappan Co., Tappan Park, Mansfield, Ohio 44901. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 West Walnut Street, Suite 13, Fort Wayne, Ind. 46802.

No. MC 124174 (Sub-No. 111TA), filed October 28, 1977. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Marshall D. Becker, Stern & Becker, 530 Unlvc Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) meat, meat products, meat by-products (except hides and commodities in bulk); and (2) equipment, materials, and supplies used in the manufacture thereof, from the plantsite and warehouse facilities of Banquet Stores, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kalwall Corp., Daniel Joe Green, District Supervisor, room 115, Federal Building and Courthouse, 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, Okla. 73102.

No. MC 129480 (Sub-No. 30TA), filed November 3, 1977. Applicant: TRI-LINE EXPRESSWAYS, LTD., 550 71 Avenue SE, P.O. Box 5245, Station A, Calgary, Alberta, Canada. Applicant's representative: Theo. A. J. Swanson, P.O. Box 81849, Lincoln, Nebraska, 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Prepared frozen foods (except commodities in bulk), from the plantsite and warehouse facilities of Banquet Foods Corp., 100 North Broadway, St. Louis, Mo. 63102. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 138308 (Sub-No. 35TA), filed October 31, 1977. Applicant: KLM, INC., P.O. Box 162, Railroad Avenue,
Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Automobiles, in truckaway service, from St. Petersburg, Fla., and points in its commercial zone, to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper(s): R. W. Grayson Motor Lines, Inc., 11442 North 66th Street, Lasco, Fla. 33543. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, room 1313, 2121 Building, Birmingham, Ala. 35202.

No. MC 14157S (Sub-No. TTA), filed November 1, 1977. Applicant: TPS, INC., East Highway 136, Oxford, Nebr. 68867. Applicant's representative: Gaiyn L. Larsen, Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Pepperoni, for the account of Oxford Cheese Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oxford Cheese Corp., Roy Mitchell, President, North Highway 46, Box 68, Oxford, Nebr. 68867. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 264 Boulder Industrial Drive, Federal Building and U.S. Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68505.

No. MC 142368 (Sub-No. 6TA), filed November 3, 1977. Applicant: DANNY HERMAN TRUCKING, INC., 15252 Valley Boulevard, City of Industry, Calif. 91744. Applicant's representative: William J. Monheim, 13710 East Whittier Boulevard, P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Beverage and dessert ingredients and preparations, between Bridgeton, Mo., and City of Industry, Calif., on the one hand, and, on the other, all points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper(s): William M. Hickman, Consolidated Flavor Corp., 284 Boulder Industrial Drive, Bridgeton, Mo. 63044. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Room 3211, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 144561 (Sub-No. 16TA), filed November 7, 1977. Applicant: TOMMY HAGWOOD, d/b/a HAGWOOD ENTERPRISES, route 1, Box 222-A, Trafford, Ala. 35172. Applicant's representative: William P. Jackson, Jr., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Passengers and their baggage in special operations limited to the transportation of no more than seven passengers in the vehicle at one time not including the driver, between points in Connecticut and points in Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, for 180 days. Supporting shipper(s): There are approximately 8 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Room 324, Hartford, Conn. 06101.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-35560 Filed 12-13-77; 8:45 am]

[7035-01]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

December 1, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.
A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 21866 (Sub-No. 92TA), filed November 21, 1977. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Ave., Boyertown, Pa. 19512. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, 15th and J F. Kennedy Blvd., Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Steel pallet racks and storage racks, from the facilities of Artco Corp., Hatfield, Pa., to Corinth, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 240 days of operating authority. Supporting shipper: Artco Corp., Penn Avenue, Hatfield, Pa., 19440. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3333, Philadelphia, Pa. 19106.

No. MC 26396 (Sub-No. 161TA), filed November 11, 1977. Applicant: PELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Bradford E. Kistler, P.O. Box 82928, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plastic pipe and conduit, and fittings, valves, and accessories thereof, from points in Geneva County, Ala., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shippers: Gregory H. Anderson, Vice President, Samson Plastic Conduit and Accessories Co., 302 1st Avenue, Newark, N.J. 07601. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036. Authorization sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Matt beverages, and related advertising materials (except iron and steel articles and commodities in bulk), from the facilities of Artco Corp., Kansas City, Mo., to points in Indiana and Kentucky, for 180 days. Support­ ing shipper: CertainTeed Corp., P.O. Box 860, Valley Forge, Pa. 19462. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 69492 (Sub-No. 61TA), filed November 10, 1977. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS Trucking Co., P.O. Box 97, Clinton, Ky. 42301. Applicant's representative: Roland M. Moseley, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which require the use of special equipment), in service auxiliary to and supplemental of rail service restrictions in Certifi­ cate No. MC 89723 and subnumbers thereto, serving the San Miguel Power Plant site located approximately 12 miles west of Campbellton, Tex., as an off-route point in connection with applicant's presently authorized regular route operations using (a) Farm Road 791, from Campbellton to plantsite access road, thence via plantsite access road to San Miguel Power Plant site; (b) Farm Road 140 from Campbellton to plantsite access road, thence via plantsite access road to San Miguel Power Plant site; (c) from junction U.S. Highway 281 Texas Highway 97 at Pleasanton, Tex., over Texas Highway 97 to its junction with Texas Highway 16 to plantsite access road; thence via plantsite access road to San Miguel Power Plant site; (d) from junction U.S. Highway 281 and Texas Highway 97 at Pleasanton, Tex., over Texas Highway 97 to its junction with Farm Road 140, thence over Farm Road 140 to plantsite access road, thence via plantsite access road to San Miguel Power Plant site; (e) from junction U.S. Highway 281 Texas Highway 97 at Pleasanton, Tex., over Texas Highway 97 to its junction with Farm Road 140, thence over Farm Road 140 to plantsite access road, thence via plantsite access road to San Miguel Power Plant site; and (f) from junction U.S. Highway 281 and Texas Highway 97 at Pleasanton, Tex., over Texas Highway 16 to plantsite access road, thence via plantsite access road to San Miguel Power Plant site; and (g) from junction U.S. Highway 281 and Texas Highway 97 at Pleasanton, Tex., over Texas Highway 97 to its junction with Farm Road 140, thence over Farm Road 140 to plantsite access road, thence via plantsite access road to San Miguel Power Plant site; and (h) from junction U.S. Highway 281 and Texas Highway 97 at Pleasanton, Tex., over Texas Highway 16 to plantsite access road, thence via plantsite access road to San Miguel Power Plant site; and (i) from junction U.S. Highway 281 and Texas Highway 97 at Pleasanton, Tex., over Texas Highway 16 to plantsite access road, thence via plantsite access road to San Miguel Power Plant site.
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Avenue, Barberton, Ohio 44203. Send protests to: District Supervisor, J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 100449 (Sub-No. 78TA), filed November 27, 1977. Applicant: M. L. LINGER TRUCK LINE, INC., R. R. No. 4, Fort Dodge, Iowa 50501. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, from New Haven, Iowa, to Dallas, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, Ill. 60015. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 112822 (Sub-No. 439TA), filed November 21, 1977. Applicant: BRAY LINES INC., 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74323. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Confectioneries, from the plant site and/or storage facilities of Peter Paul, Inc., at or near Franklin, Ind., to points in Arkansas and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Peter Paul, Inc., New Haven Road, Naugatuck, Conn. 06770. Send protests to: Joe Green, District Supervisor, room 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, Okla. 73102.

No. MC 118159 (Sub-No. 239TA), filed November 14, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366—Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Ice cream, ice milk, and low-calorie products (except in bulk), from Hutchinson, Kan., to Twin Falls, Idaho and Seattle, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Dairy Queen, 5701 Green Valley Road, Bloomington, Minn. 55435. Send protests to: Joe Green, District Supervisor, room 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, Okla. 73102.

No. MC 119789 (Sub-No. 387TA), filed November 27, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, 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, transporting: Milk beverages and related advertising material, from Fort Worth, Tex., to Tallahassee, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Spearman Distribution Co., P.O. Box 2765, Tallahassee, Fla. 32304. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, room 13C12, Dallas, Tex. 75242.

No. MC 124078 (Sub-No. 763TA), filed November 21, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53206. Applicant's representative: Richard L. Roundhouse (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plastic materials, dry, in bulk, in tank vehicles, Ill., to points in Iowa, Missouri, Minnesota, Wisconsin, Michigan, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Georgia, Massachusetts, and Virginia, for 180 days. Supporting shipper: Borden Chemical, Division of Borden, Inc., 180 E. Broad Street, Columbus, Ohio (Richard L. Roundhouse). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, 518 Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 124813 (Sub-No. 178TA), filed November 11, 1977. Applicant: UMTHUN TRUCKING CO., 910 South 16th Street, Minot, N.D. 58702. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: System, joint compound, tape, texturing compounds, and articles, used in the manufacture thereof, from Matte son, Ill., to Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thompson-Hayward Chemical Co., 5890 Sparsak Road, Kansas City, Kan. 64106. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 125128 (Sub-No. 11TA), filed November 21, 1977. Applicant: CROWN TRUCK LINE, INC., 3811 Broadway, Macon, Ga. 31206. Applicant's representative: Kim G. Meyer, 1600 First Federal, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Precast and prestressed concrete products, from the plant site and facilities of Macon Prestressed Concrete Co., Inc., at or near Macon and Jonesboro, Ga., to points in Alabama, Florida, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: Macon Prestressed Concrete Co., Inc., P.O. Box 53-P, 4496 Mende Road, Macon, Ga. 31206. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., room 300, Atlanta, Ga. 30309.

No. MC 136553 (Sub-No. 54TA), filed November 11, 1977. Applicant: ART PAPE TRANSFER, INC., 1080 East 11th Street, Westlake, Ohio 44127. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Insecticides, in bags, from the plant site of Cellulose Processing Co., at Dubuque, Iowa, to points in Illinois and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cellulose Processing Co., East 11th and Cedar, Dubuque, Iowa 52001. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 138627 (Sub-No. 23TA) (correction), filed October 14, 1977, published in the FEDERAL REGISTER issue of November 11, 1977, and republished as corrected this issue. Applicant: SMITHWAY MOTOR XPRS, INC., P.O. Box 404, Route 4, Fort Dodge, Iowa 50501. Applicant's representative: Arlyn L. Westergren, Suite 530, UniVac Building, 7100 West Center Road, Omaha, Neb. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plasterboard joint system, joint compound, tape, texturing compounds, and articles, used in the manufacture thereof, from Matte son, Ill., to Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gold Bond Building Products, Division of National Gypsum Co., 325 Delaware Ave., Barberton, Ohio (Richard L. Roundhouse). Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.
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eral Building, Des Moines, Iowa 50309. The purpose of this republication is to add the state of Missouri, which was previously omitted.

No. MC 139495 (Sub-No. 28TA), filed November 14, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 East 8th Street, Liber-
al, Kans. 67901. Applicant’s representa-
tive: Herbert Alan Dubin, 1320 Pen-
wick Lane, Silver Spring, Md. 20910. Authority sought to operate as a "common carrier," by motor vehicle, over irregular routes, transporting: Prepared flour mixes and frosting mixes, from Chelsea, Mich., to Connec-
ticut, Maine, Massachusetts, New York, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Ver-
mont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chelsea Milling Co., Chelsea, Mich. 48118. Send protests to: M. E. Taylor, District Supervisor, In-
terstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 139713 (Sub-No. 4TA), filed November 14, 1977. Applicant: DONALD M. NASS, d.b.a. DON NASS TRUCKING, 210 Front Street, Clin-
ton, Wis. 53525. Applicant’s representa-
tive: Richard A. Westley, 4506 Regent Street, Madison, Wis. 53705. Authority sought to operate as a "common carrier," by motor vehicle, over irregular routes, transporting: Matt beverages, from La Crosse, Wis., to points in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, and Washington, for 180 days. Applicant has also filed an under-
lying ETA seeking up to 90 days of operating authority. Supporting shipper: Beloit Beverage Co., Anthony D. Morello, Secretary, 465 Colby Street, Beloit, Wis. 53511. Send protests to: District Supervisor, Ronald A. Morken, Interstate Commerce Com-
mision, 139 West Wilson Street, Madi-
on, Wis. 53703.

No. MC 139760 (Sub-No. 5TA), filed November 14, 1977. Applicant: WILLIAM ULRICH TRUCKING CO., INC., 128 Vreeland Avenue, Leonie, N.J. 07605. Applicant’s representa-
tive: William Ulrich (same address as ap-
plicant). Authority sought to operate as a "contract carrier," by motor vehicle, over irregular routes, transporting: Scrap metal, including scrap gas meters. From New York, N.Y., to Ne-
vilee Island, Pa., under a continuing con-
tract or contracts with Vulcan Ma-
terials Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vulcan Materials Co., P.O. Box 7497, Birmingham, Ala. 35222. Send protests to: Joel Morello, District Supervisor, Interstate Com-
munity Commission, Bureau of Oper-
atons, 9 Clinton Street, Newark, N.J. 07102.

No. MC 140927 (Sub-No. 5TA), filed November 11, 1977. Applicant: F. J. CAREY JR. TRANS., INC., 35 Brett Street, Box 1500, Appli-
cant’s representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a "common carrier," by motor vehicle, over irregular routes, transporting: Scrap metals, in dump vehicles, from Brockton, Mass., to Providence, R.I., and North Haven, Conn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Support- ing shipper: Brisco Baling Corp., doing business as Brockton Iron & Steel, 45 Freight Street, Brockton, Mass. 02302. Send protests to: District Supervisor, John B. Thomas, Bureau of Operations, In-
terstate Commerce Commission, 150 Causeway Street, Boston, Mass. 02114.

No. MC 143933TA, filed November 1, 1977. Applicant: ABCO MOVING & STORAGE, INC., 170 Atlantic Avenue, Chesapeake, Va. 23324. Ap-
plicant’s representative: William Ulbrich (same address as ap-
plicant). Authority sought to operate as a "common carrier," by motor vehicle, over irregular routes, transporting: Used hous-
goods, unaccompanied baggage, and personal effects, as defined by the Commission, between points and places in Accomack, Charles City, Gloucester, Isle of Wight, James City, Mathews, Northampton, Prince George, Southampton, Surry, Sussex, and York Counties, Va. (including the cities of Chesapeake, Hampton, New-
port News, Norfolk, Portsmouth, Suf-
folk, Virginia Beach, and Williams-
burg, Va.; Camden, Curriluck, Dare, Gates and Pasquotank Counties, N.C., restricted to (1) traffic having a prior or subsequent movement in contain-
ers, beyond points authorized and (2) pickup and delivery service in connec-
tion with packing, crating, and con-
tainerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allstates Worldwide Movers, Inc., 150 East 55th Street, New York, N.Y. 10022; Von Der Ahe Movers, Inc., 1612 S. Cucamonga Avenue, Ontario, Calif. 91761. Send protests to: District Supervisor, Bureau of Operations, Suite 1001, Norfolk, Va. 23510. Authority sought to operate as a "common carrier," by motor vehicle, over irregular routes, transporting: Aerials or antennae, other than for television receiving sets, direction-
al non-parabolic or parabolic, from the plantsite of Scientific Atlanta, Inc., at Atlanta, Ga., to points in the United States (except Alaska and Hawaii), under a continuing contract, or con-
tracts, with Scientific Atlanta, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Scientific Atlanta, Inc., 3845 Plesantdale Road, Atlanta, Ga. 30340. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Op-
erations, Interstate Commerce Com-
mision, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 143958TA, filed November 11, 1977. Applicant: DON & OZELLA HARRINGTON FREIGHT LINES, INC., P.O. Drawer AB, Miami, Ariz. 85559. Applicant’s representative: Earl W. Harrington, 300 North First Avenue, Phoenix, Ariz. 85003. Authority sought to operate as a "common carrier," by motor vehicle, over irregular routes, transporting: Copper concen-
trates, in bulk, in dump or hopper type trailers, from Fierro, N. Mex. (approx-
imately 20 miles northeast of Silver City, N. Mex.), to Inspiration, Ariz., for 180 days. Supporting shipper: Inspiration Consolidated Copper Co., in-
NOTICES


No. MC 143996TA, filed November 9, 1977. Applicant: LEONARD ESTES, Route 1, Hamilton, Ala. 35570. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Lumber, from Guin, Ala., to Selmer and Henry, Tenn., and from Roxie, Miss., to Guin, Ala., under a continuing contract or contracts with Universal Forest Products, Inc., for 180 days. Supporting shipper: Universal Forest Products, Inc., Alabama Components Products Division, Guin, Ala. 35563. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, room 1616-2121 Building, Birmingham, Ala. 35203.

No. MC 143961TA, filed November 8, 1977. Applicant: JACK A. BRANSON, d.b.a. JAB TRUCKING CO., 517 East Second, Ellinwood, Kans. 67528. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Fiberglass storage tanks and accessories, from Ellinwood, Kans., to Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming, and also resin, from Kansas City, Mo., and Dallas, Tex., to Ellinwood, Kans., and also glass, from Kansas City, Mo., and Dallas, Tex., to Ellinwood, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Glass Storage Distributors, Inc., 706 Main Street, Great Bend, Kans. 67530. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 143966 (Sub-No. 1TA), filed November 18, 1977. Applicant: GERALD STAGER AND DENNIS DRDA, d.b.a. STAGER-DRDA TRANSPORTATION, 5442 Hillsbrough Road, Rockford, Ill. 61106. Applicant's representative: Dennis P. Drda (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Malt beverages and related products, in containers, from St. Paul, Minn. to Rockford, Ill., including advertising matter and shipments which have been accepted by the consignee and subsequently refused, under a continuing contract or contracts with D&D Distribution Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D&D Distributing Co., Inc., Joseph Domino, President, 5136-5170—27th Avenue, Rockford, Ill. 61109. Send protests to: Transportation Assistant Patricia A. Roseoo, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, room 1386, Chicago, Ill. 60604.

No. MC 143968TA, filed November 11, 1977. Applicant: GEORGE DONAHUE, d.b.a. DONAHUE TRUCKING, 2211 Stewart Street, Des Moines, Iowa 50317. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Clay building face brick, from Chillicothe, Mo. to points in Iowa. Restricted to service under a continuing contract or contracts with Sheffield Brick & Tile Co. of Sheffield, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sheffield Brick & Tile Co., P.O. Box 6, Sheffield, Iowa 50475. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143994TA, filed November 16, 1977. Applicant: KARL BERTRAND, d.b.a. KARL BERTRAND TRUCKING, P.O. Box 897, Rossville, Ill. 61080. Applicant's representative: Karl Bertrand (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Boardroom lumber, from Batson, Tex. to Eunice, La., for 180 days. Supporting shipper: South Louisiana Contractors, 700 South Charlotte, Eunice, La. 70535. Send protests to: Ray C. Armstrong, Jr., District Supervisor, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, La. 70113.

PASSENGER APPLICATION

No. MC 143964 (Sub-No. 1TA), filed November 14, 1977. Applicant: CITY OF BELOIT, WISCONSIN, A Wisconsin Municipal Corporation, 220 West Grand Avenue, Beloit, Wis. 53511. Applicant's representative: H. H. Holt (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Passengers and their baggage, by motor bus within the corporate limits of Beloit, Wis. and South Beloit, Ill., within the City of Beloit, Wis. and South Beloit, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: City of South Beloit, Ill. Mayor Gary D. Pierce, 519 Blackhawk Boulevard, South Beloit, Ill. 61080. Send protests to: District Supervisor Ronald A. Morken, Interstate Commerce Commission, 139 West Wilson Street, Madison, Wis. 53703.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[F.R Doc. 77-35562 Filed 12-13-77; 8:45 am]
This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409, 5 U.S.C. 552b(e)(3)).

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[6320-01]

1 CIVIL AERONAUTICS BOARD.

ADDITION OF ITEM TO THE DECEMBER 12, 1977 MEETING AGENDA

REVISED AGENDA

TIME AND DATE: 2 p.m., December 12, 1977.


(Addition.)—2. Improved Authority to Wichita Case, Docket 26848; Additional Dallas/Port Worth-Kansas City Nonstop Service Case, Docket 28778; Phoenix-Des Moines/Milwaukee Route Proceeding, Docket 28806; Sacramento-Denver Nonstop Case, Docket 28961; Memphis-Twin Cities/Milwaukee Case, Docket 29186; and Greenville/Spartanburg-Washington/New York Subpart M Case, Dockets 24778 and 28306 (Memo No. 7483-A, OGC, BFR, OEA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION:

At the December 8, 1977 meeting, discussion of item 22 on that agenda was not reached before the time that Member Minetti had to leave for negotiations at the State Department. In order that this item could be on an agenda at a time that Member Minetti could be present, the following Members have voted that agency business requires the addition of this item as item 2 for December 12, 1977 meeting and that no earlier announcement of this addition was possible:

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-2045-77 Filed 12-12-77; 8:45 am]

[6320-01]

2

(M-87; 12/8/77)

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 12:30 p.m., December 15, 1977.


SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 31423, Marco Island Airway's request to operate large aircraft nonstop between Miami and Fort Myers (Memo No. 7665-E, BOR).

3. Docket 31412, Pan American’s application for fill-up authority between Seattle and San Francisco (Memo No. 7629, BOR).


5. Docket 29731, American Airlines, Inc.—Exemption to operate between New York and Guadeloupe/Martinique/Jamaica (Memo No. 5177-E, BOR, BIA).

6. Docket 31414, motion to add party in Service to Kauuila Case (BIA, OGC).

7. Exemptions from Act for 416 certificated carriers (BOR, OGC, OEA, BFR, BOE).


9. Docket 31529, expedited rulemaking to liberalize charter rules on an interim basis, instituted by notice of proposed rulemaking SPDR-61, (OGC).


13. Docket 31465, Cornwall Aviation, Ltd.’s application for foreign air carrier permit (Memo No. 7636, BIA, BOR, OGC).

14. Docket 30332, increases in United States-Colombia unit load device (container) rates (Memo No. 7635, BFR, BIA).

15. Docket 29123, Agreement C.A.B. 26866, IATA agreement proposing a general fuel-related increase in United States-South America long-haul fares (Memo No. 7633, BFR, BIA).


17. Dockets 31559 and 31609, rules relating to the acceptance and carriage of live animals in domestic air freight transportation proposed by participating airlines (Memo No. 7632, BFR).


STATUS: Open (1 through 19); Closed (20).

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION:

EXPLANATION OF THE CLOSING

Travellers Air Services, Inc. (TAS), and TWA have filed a joint application for an emergency exemption to "expressly authorize" their proposed
1978 charter programs (AB-77-1149 and IT-77-382). The applicants discussed the participation of the Board in a civil action, within the meaning of the exceptions provided under 5 U.S.C. § 552(b)(9)(B), (c)(7)(A), and (c)(10), respectively, and 14 CFR § 310b 5(9)(B), 5(7)(A), and 5(10), respectively. Accordingly, the following Members have voted that this meeting will be closed to public observation:

Chairman Alfred E. Kahn
Member G. Joseph Menetti
Member Lee R. West
Member Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

BOARD MEMBERS:
Chairman Alfred E. Kahn
Member G. Joseph Menetti
Member Lee R. West

ASSISTANT TO BOARD MEMBERS:
Mr. Mike Rosch
Mr. Elias C. Rodriguez
Mr. Ford Cole
Mr. James Casey
Mr. John Golden
Ms. Barbara Clark.

BUREAU OF OPERATING RIGHTS:
Mr. James Saltman
Mr. John Coleman
Ms. Patricia Scrom
Mr. George Wellington

BUREAU OF ENFORCEMENT:
Mr. James Tello
Mr. T. Christopher Browne
Mr. Paul Bessel

OFFICE OF THE SECRETARY:
Mrs. Phyllis T. Kaylor
Ms. Deborah A. Lee

REPORTER:
Alderson Reporting Co.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. § 552(b)(9)(B), (c)(7)(A), and (c)(10).


Philip T. Bakes, Jr.,
General Counsel.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No. and Company
RP-6—Docket No. RP73-97, Kentucky-West Virginia, Gas Co.
CI-13—Docket Nos. CI77-771 and RI77-122, Prepport Oil Co.
M-2—Reexamination of Special Relief and Related Cost Issues Involving Gas Producers.
M-3—Docket No. RM75-25, Policy With Respect to Certification of Pipeline Transportation Agreements.
ER-7—Docket No. E-8178, Southern California Edison Co.

Kenneth F. Plumb,
Secretary.

[6720-01]
Consideration of FSLIC Assessments for fiscal year 1978.

ANNOUNCEMENT IS BEING MADE AT THE EARLIEST PRACTICABLE TIME.


TIME AND DATE: 10 a.m., December 15, 1977.

PLACE: 320 First Street NW., room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-378-3012.

MATTERS TO BE CONSIDERED:

Satellite Office Application, South Gate Federal Savings and Loan Association, Newport, Ky.

Limited Facility Application, Berkeley Federal Savings and Loan Association of New Jersey, Millburn, N.J.

Consideration of Sale of Certificate of Sheriff’s Sale, Cold Storage Warehouse, 4021 South Normal Avenue, Chicago, Ill.

Consideration of Amendments to Part 500 Relating to Organization and Channeling of Functions.


Consideration of 90 and 95 percent loan limits.

Consideration of Implementation of the Housing and Community Development Act of 1977 (Farm Loans and Line-of-Credit Loans).

ANNOUNCEMENT IS BEING MADE AT THE EARLIEST PRACTICABLE TIME.

No. 107, December 7, 1977.

TIME AND DATE: 9:30 a.m., Thursday, December 14, 1977.


STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Open portion:

Summary Agenda: Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed amendments to Regulation F (Securities of Member State Banks) to maintain substantial similarity with rules of the Securities and Exchange Commission.


3. Proposed amendments to the Transfer Agent registration form (TA-1) and extension of time for filing the amended form.


2. Any agenda items carried forward from a previously announced meeting.

Closed portion:

1. Personnel appointments within the Board's staff.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: December 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

42 FR 61706, December 6, 1977.


CHANGES IN THE MEETING: Addition of the following open item to the meeting: Proposed modification of the Federal banking agencies' report form measuring foreign country risk exposure of U.S. banks. (This item will be handled on the Summary Agenda).

Previously announced open items: Summary Agenda: Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed statement to be presented to the Subcommittee on Financial Institutions of the Senate Committee on Banking, Housing and Urban Affairs regarding S. 1900, a bill entitled "Interstate Taxation of Depositories Act of 1977".

2. Proposed interpretation of Regulation A (Extensions of Credit by Federal Reserve Banks) to provide that a banks' acceptance secured by a field warehouse receipt covering readily marketable staples is eligible for discount by a Federal Reserve Bank despite the fact that the warehouseman is an employee of the owner of the goods.

Discussion Agenda: 1. Proposed changes in procedures regarding Federal Reserve Agent's function.

2. Proposed report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of Bank of McComb, McComb, Miss., with Southwest Mississippi Bank, Magnolia, Miss.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: December 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

INTERSTATE COMMERCE COMMISSION, DIVISION 3.

TIME AND DATE: 2:30 p.m., Monday, December 19, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of Open Meeting.

MATTER TO BE CONSIDERED: Review of Division 3 workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, 202-275-7535.


GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, December 22, 1977 (NM-77-43).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 In-
[63010-63044]

.dependence Avenue SW., Washington, D.C. 20554.

STATUS: Open.

MATTERS TO BE CONSIDERED:
3. Letter to Federal Aviation Administration re NPRM 77-21, Elimination of Certain Flight Plan Requirements for Civil Aircraft Operating between United States and Canada or Mexico.

CONTACT PERSON FOR MORE INFORMATION:
Sharon Flemming, 202-426-8860.
(S-2087-77 Filed 12-12-77; 3:48 pm)

[7590-01]

NUCLEAR REGULATORY COMMISSION.


PLACE: Commissioners’ Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open (Additional Items).

MATTERS TO BE CONSIDERED: 5 p.m. (Approx.)—Affirmation of: Application for Employment of a Consultant; Extension of Review Time in ALAB-435 (St. Lucie 2).

CONTACT PERSON FOR MORE INFORMATION:
Walter Magee, 202-634-1410.
Dated at Washington, D.C., this 8th day of December 1977.

WALTER MAGEE,
Office of the Secretary.
(S-2053-77 Filed 12-12-77; 11:13 am)

[7910-01]

RENEGOTIATION BOARD.

DATE AND TIME: Friday, December 16, 1977; 9:30 a.m.


STATUS: Open to public observation.

MATTER TO BE CONSIDERED: The Role of the Renegotiation Board in 1978.

CONTACT PERSON FOR MORE INFORMATION:
Lee H. Chait, Analyst, 202-724-3094.
(S-2054-77 Filed 12-12-77; 12:04 pm)

[8010-01]

SECURITIES AND EXCHANGE COMMISSION.

DATE AND TIME: December 7, 1977, 10 a.m.

PLACE: Room 625, 500 North Capitol Street, Washington, D.C.

STATUS: Closed Meeting.

At a closed meeting on Wednesday, December 7, 1977, at 10 a.m., the Commission considered the following item:

Discussion of regulatory matters bearing enforcement implications.

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

December 9, 1977.

(S-2054-77 filed 12-12-77; 12:04 pm)

[4410-01]

UNITED STATES PAROLE COMMISSION.

NATIONAL COMMISSIONERS (THE COMMISSIONERS PRESENTLY MAINTAINING OFFICES AT WASHINGTON, D.C. HEADQUARTERS)

TIME AND DATE: Thursday, December 22, 1977; 2:30 a.m.


STATUS: Closed—Pursuant to 5 U.S.C. 552b(c)(10) and 28 CFR 16.205(b)(1).

MATTERS TO BE CONSIDERED: Referrals from regional directors of approximately 20 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:
Lee H. Chait, Analyst, 202-724-3094.
(S-2054-77 Filed 12-12-77; 11:13 am)

[6325-01]

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 9 a.m., Wednesday, December 21, 1977.

PLACE: Commissioners’ Meeting Room, room 5109 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commissioners will deliberate further and may approve, with or without modifications, Vice Chairman Sugarman’s proposal, “A Plan for Special Emphasis Employment Programs.” Public hearings have been held on the Plan. The record, which was held open an additional two weeks for the receipt of comments, is now closed.

CONTACT PERSON FOR MORE INFORMATION:
Georgia Metropulos, Office of the Executive Assistant to the Commissioners, 202-632-5556.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.
(S-2060-77 Filed 12-13-77; 10:31 am)

[7590-01]

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, December 15 and Friday, December 16, 1977 (Revised).

PLACE: Commissioners’ Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:
THURSDAY, DECEMBER 15
9:30 a.m.—Review of ALAB-420 (St. Lucie 2) (Approx. 1 hr.) (Public Meeting).
1:30 p.m.—Briefing on Status of Licensing Reform Legislation (Approx. 1 hr.) (Closed-Exemptions 1 & 9).

FRIDAY, DECEMBER 16
1:30 p.m.—1. Briefing by Vari Bennett on Forthcoming Meeting of Standing Advisory Group on Safeguards Implementation (IAEA) and Other International Safeguards Matters (Approx. 1 hr.) (Closed-Exemptions 1 & 9).
2. State Department Briefing on Export and Non-Proliferation Matters (Approx. 1 hr.) (Closed-Exemptions 1 & 9).

CONTACT PERSON FOR MORE INFORMATION:
Walter Magee, 202-634-1410.
(S-2059-77 Filed 12-13-77; 10:34 am)

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

PROPOSED FLOOD ELEVATION DETERMINATIONS
PROPOSED FLOOD ELEVATION DETERMINATIONS FOR TOWN OF HANCEVILLE, CULLMAN COUNTY, ALA.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Hanceville, Cullman County, Ala. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to adopt to either qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations listed below for selected locations in the Town of Hanceville, Cullman County, Ala. are available for review at Town Hall, Hanceville, Ala. Send comments to: Mayor Norman Plunkett, Town Hall, Hanceville, Ala. 35077.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 2401 M Street, SW., Washington, D.C. 20410.


These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to adopt to either qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). These modified elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mud Creek</td>
<td>Louisville and Nashville R.R.</td>
<td>526</td>
</tr>
<tr>
<td></td>
<td>U.S. Highway 20...</td>
<td>523</td>
</tr>
<tr>
<td></td>
<td>Alabama Highway 21...</td>
<td>534</td>
</tr>
<tr>
<td></td>
<td>North Fork of Mud Creek</td>
<td>535</td>
</tr>
<tr>
<td></td>
<td>Commercial St. (up stream side)</td>
<td>535</td>
</tr>
<tr>
<td></td>
<td>Hitezville Rd. (up stream side)</td>
<td>500</td>
</tr>
</tbody>
</table>

(Also, a flood plain elevation determination showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations listed above for the Town of Hanceville, Cullman County, Ala. are available for review at Town Hall, Hanceville, Ala. Send comments to: Mayor Norman Plunkett, Town Hall, Hanceville, Ala. 35077.)


PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-35336 Filed 12-13-77;8:45 am]

[4210-01]

REVISION OF PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF JACKSONVILLE, PULASKI COUNTY, ARK.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Jacksonville, Pulaski County, Ark. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 42 FR 5436 on October 5, 1977, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Engineer's Office, Jacksonville, Ark. Send comments to: Mayor James G. Reid, 109 South Second Street, Jacksonville, Ark. 72076.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.


These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to adopt to either qualify 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 modified elevations will also 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 their contents.

The proposed base (100-year) flood elevations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bayou Melo Main Stem</td>
<td>Upstream of Arkansas Highway 161</td>
<td>285</td>
</tr>
<tr>
<td></td>
<td>Jacksonville cutoff road from Arkansas Highway 161</td>
<td>253</td>
</tr>
<tr>
<td>Bayou Melo Tributary No. 1</td>
<td>Upstream of South Redmond Rd.</td>
<td>270</td>
</tr>
<tr>
<td></td>
<td>Greers Ferry Rd.</td>
<td>263</td>
</tr>
<tr>
<td>Bayou Melo Tributary No. 2</td>
<td>Upstream of Marshall Rd.</td>
<td>263</td>
</tr>
<tr>
<td>Jack Bayou Main Stem</td>
<td>Eastern Pulaski County limits</td>
<td>263</td>
</tr>
<tr>
<td></td>
<td>Upstream of Arkansas Highway 161</td>
<td>273</td>
</tr>
<tr>
<td>Tributary No. 1</td>
<td>Eastern Pulaski County limits</td>
<td>286</td>
</tr>
<tr>
<td></td>
<td>Upstream of Arkansas Highway 161</td>
<td>273</td>
</tr>
<tr>
<td>Tributary No. 2</td>
<td>Eastern Pulaski County limits</td>
<td>275</td>
</tr>
<tr>
<td></td>
<td>Upstream of U.S. Highway 67-167</td>
<td>262</td>
</tr>
<tr>
<td>Tributary No. 2-A</td>
<td>Little Meadow</td>
<td>286</td>
</tr>
<tr>
<td></td>
<td>Bayou tributary No. 2</td>
<td>286</td>
</tr>
<tr>
<td>Tributary No. 2-B</td>
<td>Meadow's Trailer Park</td>
<td>286</td>
</tr>
</tbody>
</table>

(Also, a flood plain elevation determination showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations listed above for the City of Jacksonville, Pulaski County, Ark. are available for review at the City Engineer's Office, Jacksonville, Ark. Send comments to: Mayor James G. Reid, 109 South Second Street, Jacksonville, Ark. 72076.)

Issued November 7, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-35337 Filed 13-9-77;8:45 am]
PROPOSED FLOOD ELEVATION DETERMINATIONS FOR ALAMEDA COUNTY, CALIF.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Alameda County, Calif. These base (100-year) flood elevations are the basis for the flood plain 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Alameda County Flood Control and Water Conservation District, 399 Elmhurst Street, Hayward, Calif. Send comments to: Mr. Paul E. Lanferman, Engineer Manager, Alameda County Flood Conservation District, 399 Elmhurst Street, Haywood, Calif. 94544.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

These elevations, together with the flood plain management measures required by Section 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 than the flood plain 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 proposed elevations will also 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 proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arroyo Mocho</td>
<td>Corporate limits</td>
<td>341</td>
</tr>
<tr>
<td>Arroyo Las Positas</td>
<td>Downstream of Arroyo La Postas</td>
<td>501</td>
</tr>
<tr>
<td>Arroyo Las Positas</td>
<td>Arroyo Rd</td>
<td>527</td>
</tr>
<tr>
<td>Arroyo Seco</td>
<td>Vanco Rd</td>
<td>527</td>
</tr>
<tr>
<td>Las Positas Reclamation</td>
<td>Greenville Rd</td>
<td>620</td>
</tr>
<tr>
<td>Arroyo Valle</td>
<td>Vineyard Ave</td>
<td>303</td>
</tr>
<tr>
<td>Line J</td>
<td>Dublin Blvd</td>
<td>339</td>
</tr>
<tr>
<td>Chabot Canal</td>
<td>Amador Valley Blvd</td>
<td>339</td>
</tr>
<tr>
<td>San Lorenzo Creek</td>
<td>Don Castro Dam</td>
<td>358</td>
</tr>
<tr>
<td>Line G</td>
<td>Palomares Creek</td>
<td>313</td>
</tr>
<tr>
<td>Line J</td>
<td>Castro Valley Blvd</td>
<td>313</td>
</tr>
<tr>
<td>Line L</td>
<td>Pine St</td>
<td>358</td>
</tr>
<tr>
<td>Bockman Canal and Line M</td>
<td>Fitchet Bridge</td>
<td>177</td>
</tr>
<tr>
<td>Alamenda Creek</td>
<td>Sunol Dam</td>
<td>225</td>
</tr>
<tr>
<td>Taescra Creek</td>
<td>Santa Rita Rd</td>
<td>348</td>
</tr>
<tr>
<td>Capricorn Creek</td>
<td>Hartman Rd</td>
<td>322</td>
</tr>
<tr>
<td>Calico Creek</td>
<td>Interstate 880</td>
<td>416</td>
</tr>
<tr>
<td>Alhambra Creek</td>
<td>Campbell Rd</td>
<td>423</td>
</tr>
<tr>
<td>Arroyo De La Fuente</td>
<td>North Front Rd</td>
<td>247</td>
</tr>
<tr>
<td>Laguna</td>
<td>Southern Pacific R.R.</td>
<td>257</td>
</tr>
<tr>
<td>Palomares</td>
<td>Confluence with San Lorenzo Creek</td>
<td>313</td>
</tr>
</tbody>
</table>

These elevations, together with the flood plain management measures required by Section 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 than the flood plain 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 proposed elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:
PROPOSED RULES

755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.


These elevations, together with the flood plain management measures required by Section 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 flood plain 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 proposed elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

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<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grange Hall</td>
<td>Interstate 25</td>
<td>5,348</td>
<td></td>
</tr>
<tr>
<td>Creek</td>
<td>Grun Dr.</td>
<td>5,319</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Washington St.</td>
<td>5,283</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Larson St.</td>
<td>5,273</td>
<td></td>
</tr>
<tr>
<td></td>
<td>12th Ave.</td>
<td>5,241</td>
<td></td>
</tr>
<tr>
<td></td>
<td>14th Ave.</td>
<td>5,231</td>
<td></td>
</tr>
<tr>
<td></td>
<td>16th Ave.</td>
<td>5,221</td>
<td></td>
</tr>
<tr>
<td></td>
<td>18th Ave.</td>
<td>5,217</td>
<td></td>
</tr>
<tr>
<td>North Fork Grange</td>
<td>Lyons Dr.</td>
<td>5,240</td>
<td></td>
</tr>
<tr>
<td>Creek</td>
<td>Union Pacific RR.</td>
<td>5,230</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Union Pacific RR.</td>
<td>5,200</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(upstream)</td>
<td>5,200</td>
<td></td>
</tr>
<tr>
<td>South Fork Grange</td>
<td>Union Pacific RR.</td>
<td>5,200</td>
<td></td>
</tr>
<tr>
<td>Creek</td>
<td>(downstream)</td>
<td>5,200</td>
<td></td>
</tr>
<tr>
<td></td>
<td>York St.</td>
<td>5,236</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Union Pacific RR.</td>
<td>5,225</td>
<td></td>
</tr>
</tbody>
</table>


PATRICIA ROBERTS HARRIS,
Secretary.

FR Doc. 77-35330 Filed 12-13-77; 7:45 am

[ 4210-01 ]
[ 24 CFR Part 1917 ]

[ Docket No. FI-3725 ]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF NORTHGLENN, ADAMS COUNTY, COLO.

AGENCY: Federal Insurance Administrator, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Northglenn, Adams County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. These elevations, together with the flood plain management measures required by Section 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 flood plain 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 proposed elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grange Hall</td>
<td>Interstate 25</td>
<td>5,348</td>
<td></td>
</tr>
<tr>
<td>Creek</td>
<td>Grun Dr.</td>
<td>5,319</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Washington St.</td>
<td>5,283</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Larson St.</td>
<td>5,273</td>
<td></td>
</tr>
<tr>
<td></td>
<td>12th Ave.</td>
<td>5,241</td>
<td></td>
</tr>
<tr>
<td></td>
<td>14th Ave.</td>
<td>5,231</td>
<td></td>
</tr>
<tr>
<td></td>
<td>16th Ave.</td>
<td>5,221</td>
<td></td>
</tr>
<tr>
<td></td>
<td>18th Ave.</td>
<td>5,217</td>
<td></td>
</tr>
<tr>
<td>North Fork Grange</td>
<td>Lyons Dr.</td>
<td>5,240</td>
<td></td>
</tr>
<tr>
<td>Creek</td>
<td>Union Pacific RR.</td>
<td>5,230</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Union Pacific RR.</td>
<td>5,200</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(upstream)</td>
<td>5,200</td>
<td></td>
</tr>
<tr>
<td>South Fork Grange</td>
<td>Union Pacific RR.</td>
<td>5,200</td>
<td></td>
</tr>
<tr>
<td>Creek</td>
<td>(downstream)</td>
<td>5,200</td>
<td></td>
</tr>
<tr>
<td></td>
<td>York St.</td>
<td>5,236</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Union Pacific RR.</td>
<td>5,225</td>
<td></td>
</tr>
</tbody>
</table>


PATRICIA ROBERTS HARRIS,
Secretary.

FR Doc. 77-35330 Filed 12-13-77; 7:45 am

[ 4210-01 ]
[ 24 CFR Part 1917 ]

[ Docket No. FI-3725 ]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF NORTHGLENN, ADAMS COUNTY, COLO.

AGENCY: Federal Insurance Administrator, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Windsor, Hartford County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures required 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Planning Department, Town Hall, Windsor, Conn. Send comments to: Mayor John R. Welch, 275 Broad Street, Windsor, Conn. 06095.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.


These elevations, together with the flood plain management measures required by Section 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 flood plain 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 proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new build-
PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF FORT SCOTT, BOURBON COUNTY, KANS.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Fort Scott, Bourbon County, Kans. These base (100-year) flood elevations are the basis for the flood plain 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Office of Code Enforcement, Fort Scott, Kans. Send comments to: Mayor M. Joe Antrim, 1 East 3rd Street, Box 151, Fort Scott, Kans. 66701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.


These elevations, together with the flood plain management measures required by Section 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 flood plain 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 proposed elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding/Location</th>
<th>Elevation (in feet)</th>
<th>Datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connecticut River, upstream of John Russell Memorial Bridge</td>
<td>33</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Farmington River, Just downstream of Palisado Ave.</td>
<td>31</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Phelps Brook, east of East Mill Dr.</td>
<td>31</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Hayden Station Brook</td>
<td>35</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Creamery Brook, upstream of Elm Court</td>
<td>41</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Tributary C, downstream of Palisado Ave.</td>
<td>71</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Tributary D, upstream of Palisado Ave.</td>
<td>35</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Mill Brook, downstream of Palisado Ave.</td>
<td>34</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Meadow Brook, upstream of White Rock Dr.</td>
<td>55</td>
<td>National geodetic vertical datum</td>
</tr>
<tr>
<td>Decker's Brook, upstream of East Eighth Street Bridge</td>
<td>49</td>
<td>National geodetic vertical datum</td>
</tr>
</tbody>
</table>

(Federal Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17894, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary’s delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974)).


PATRICIA ROBERTS HARNESS, Secretary.

[FR Doc.77-35342 Filed 12-13-77; 8:45 am]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF HUMBOLDT, ALLEN COUNTY, KANS.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Humboldt, Allen County, Kans. These base (100-year) flood elevations are the basis for the flood plain 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Humboldt, Kans. Send comments to: Mayor Kent Lichtenwalter, 701 Bridge St., Humboldt, Kans. 66748.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872,
PROPOSED FLOOD ELEVATION DETERMINATIONS FOR VILLAGE OF CLAYTON, CONCORDIA PARISH, LA.

AGENCY: Federal Insurance Administration. HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Clayton, Concordia Parish, La. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 42 FR 53776 on October 3, 1977, and hence supersedes those previously published rules.

DATES: The period for comments will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, Clayton, La. Send comments to: Mayor Robert L. Wells, P.O. Box 129, Clayton, La. 71326.

FOR FURTHER INFORMATION CONTACT:


PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF WEST MONROE, OUACHITA PARISH, LA.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of West Monroe, Ouachita Parish, La. These base (100-year) flood elevations are the basis for the flood plain 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Building Inspector, West Monroe, La. 71291. Send comments to: Mayor W. B. Hatten, P.O. Box 377, West Monroe, La. 71291.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of West Monroe, Ouachita Parish, La., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which amended (39 FR 2787, January 24, 1969.)


PATRICIA ROBERTS HARRIS, Secretary.

[FR Doc.77-35343 Filed 12-13-77;8:45 am]

[4210-01] [24 CFR Part 1917] [Docket No. FI-3729]
existing ordinances that are more stringent in their flood plain 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 proposed elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black Bayou........</td>
<td>Approximately 100 ft up stream of YELLOW FEATHER RIVER</td>
<td>96</td>
</tr>
<tr>
<td>Loves Ditch........</td>
<td>Just downstream of I-20</td>
<td>84</td>
</tr>
<tr>
<td>Golf Course .........</td>
<td>Just downstream of JACOBSON AVE</td>
<td>89</td>
</tr>
<tr>
<td>Highland School ....</td>
<td>Approximately 100 ft up stream of PINEY RUN</td>
<td>94</td>
</tr>
<tr>
<td>Tupawek Bayou ....</td>
<td>Just downstream of ARKANSAS RIVER</td>
<td>86</td>
</tr>
<tr>
<td>Notsa Tupawek ...</td>
<td>Just upstream of BAYOUA</td>
<td>85</td>
</tr>
<tr>
<td>Ouachita River ....</td>
<td>Just upstream of U.S. Highway 1-20</td>
<td>84</td>
</tr>
</tbody>
</table>

(Effective January 28, 1969 (33 FR 7004, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary’s delegation of authority to Federal Insurance Administrator, Office of Flood Insurance, 202-555-5551 or toll free 800-424-3872, Room 5370, 451 Seventh Street SW, Washington, D.C. 20410.)

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Erie, Monroe County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to 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). DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, 2060 Manhattan Street, Erie, Mich. Send comments to: Mr. William Fry, Township Supervisor, Township of Erie, Monroe County, Mich. 48133.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-555-5551 or toll free 800-424-3872, Room 5370, 451 Seventh Street SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Erie, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a). These elevations, together with the flood plain management measures required by Section 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 flood plain 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 proposed elevations will also 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 their contents.

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<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turkey Creek .......</td>
<td>Just downstream of LOUISIANA HIGHWAY 49</td>
<td>65</td>
</tr>
<tr>
<td>Downstream of ....</td>
<td>Just downstream of LOUISIANA HIGHWAY 49</td>
<td>67</td>
</tr>
<tr>
<td>Ash Slough .........</td>
<td>Just upstream of EIGHTH STREET</td>
<td>69</td>
</tr>
<tr>
<td>Just downstream of</td>
<td>Just downstream of EIGHTH STREET</td>
<td>60</td>
</tr>
<tr>
<td>David St. (extended)</td>
<td>70</td>
<td></td>
</tr>
</tbody>
</table>


SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Erie, Monroe County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to 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). DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, 2060 Manhattan Street, Erie, Mich. 48133.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-555-5551 or toll free 800-424-3872, Room 5370, 451 Seventh Street SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Erie, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a). These elevations, together with the flood plain management measures required by Section 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 flood plain 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 proposed elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

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<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
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</thead>
<tbody>
<tr>
<td>Turkey Creek .......</td>
<td>Just downstream of LOUISIANA HIGHWAY 49</td>
<td>65</td>
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<tr>
<td>Downstream of ....</td>
<td>Just downstream of LOUISIANA HIGHWAY 49</td>
<td>67</td>
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<tr>
<td>Ash Slough .........</td>
<td>Just upstream of EIGHTH STREET</td>
<td>69</td>
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<td>Just downstream of</td>
<td>Just downstream of EIGHTH STREET</td>
<td>60</td>
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<td>David St. (extended)</td>
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SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Winn, Franklin Parish, La. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to 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). DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, 2060 Manhattan Street, Winn, Franklin Parish, La. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to 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).
PROPOSED RULES

to mean the community must change any existing ordnances that are more stringent in their flood plain 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 proposed elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

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<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
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<tr>
<td>Lake Erie...........</td>
<td>Stump Rd</td>
<td>678</td>
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<tr>
<td>Bay Creek...........</td>
<td>Cemetery Rd</td>
<td>678</td>
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<td>Erie Rd</td>
<td>679</td>
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<td>U.S. 29</td>
<td>680</td>
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<tr>
<td>Saginaw River......</td>
<td>Cass Ave</td>
<td>585</td>
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<td>WeaRdock Rd</td>
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<td></td>
<td>Saginaw River crossing</td>
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<td>Detroit, Toledo &amp; Saginaw River R.R.</td>
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1 Upstream.
2 Downstream.


PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc.77-35347 Filed 12-13-77;8:45 am]  

[4210-01]  

[24 CFR Part 1917]  
[Docket No. FI-3732]  

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR WILKIN COUNTY, MINN.  
AGENCY: Federal Insurance Administration, HUD.  
ACTION: Proposed rule.  
SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations for selected locations in Wilkin County, Minn. These base (100-year) flood elevations are available for review at Wilkin County Courthouse, Breckenridge, Minn.; Send comments to: Ms. Kathleen Nertin, Chairperson, Wilkin County Board of Commissioners, Wilkin County Courthouse, Breckenridge, Minn. 56530.  

FOR FURTHER INFORMATION CONTACT:  
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 8270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:  

These elevations, together with the flood plain management measures required by Section 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 flood plain 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 proposed elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

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<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
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<tr>
<td>Saginaw River......</td>
<td>Weedsack Rd</td>
<td>585</td>
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<td>Saginaw Bay........</td>
<td>Boston Rd</td>
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<td>Youngs Dutch Rd</td>
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<td>Cass Ave</td>
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PATRICIA ROBERTS HARRIS,  
Secretary.
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 Federal regulations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second floor and above for selected locations in the City of Bridgeton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 860, which added section 1363 of the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary’s delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1974, as amended (49 FR 2787, January 24, 1974)


PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35350 Filed 12-13-77:8:45 am]

[ 4210-01 ]
[ 24 CFR Part 1917 ]
[Docket No. FI-3735]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF BRIDGETON, ST. LOUIS COUNTY, MO.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information of comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Bridgeton, Madison County, Mo. These base (100-year) flood elevations are the basis for the flood plain 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Engineer’s Office, City Hall, 1155 Natural Bridge, Bridgeton, Mo. 63044. Send comments to: The Honorable Alf J. Sloe, Mayor, City of Bridgeton, 1155 Natural Bridge, Bridgeton, Mo. 63044.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 205-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.


These elevations, together with the flood plain management measures required by section 110.3 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 flood plain 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 proposed elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

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<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national vertical datum</th>
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<td>Cowmire Creek</td>
<td>At the confluence of East tributary.</td>
<td>458</td>
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<td>Just downstream of Target store.</td>
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<td>Just upstream of McKelvin Rd.</td>
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<td>Just downstream of Target store culvert.</td>
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<td>Just downstream of Pavement Dr.</td>
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<td>Just downstream of Interstate 270.</td>
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<td>Just downstream of Target store culvert.</td>
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<td>Just downstream of McKelvin Rd.</td>
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<td>East Tributary</td>
<td>At the Confluence.</td>
<td>460</td>
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<td>Cowmire Creek</td>
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</tbody>
</table>
202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.


These elevations, together with the flood plain management measures required by section 1010.2 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 flood plain 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. Those proposed elevations will also 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 their contents.

The proposed base (100-year) flood elevations for selected location are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>National geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Little St. Francis River.</td>
<td>At corporate limits...</td>
<td>700</td>
<td>96</td>
</tr>
<tr>
<td>At Highway 72.</td>
<td>705</td>
<td>97</td>
<td></td>
</tr>
<tr>
<td>At Sulphur Creek.</td>
<td>707</td>
<td>99</td>
<td></td>
</tr>
<tr>
<td>At upstream at dam....</td>
<td>707</td>
<td>99</td>
<td></td>
</tr>
<tr>
<td>At Saline Creek.</td>
<td>At Lincoln Ave.</td>
<td>712</td>
<td>99</td>
</tr>
<tr>
<td>At Mount Pinnacle.</td>
<td>H.R.</td>
<td>715</td>
<td>99</td>
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<tr>
<td>Tober Creek.</td>
<td>At East Main St.</td>
<td>713</td>
<td>99</td>
</tr>
<tr>
<td>At Franklin St.</td>
<td>719</td>
<td>99</td>
<td></td>
</tr>
<tr>
<td>At Saline Creek.</td>
<td>At East Marvin Ave.</td>
<td>735</td>
<td>99</td>
</tr>
<tr>
<td>At Village Creek.</td>
<td>At Catherine Mine</td>
<td>737</td>
<td>99</td>
</tr>
<tr>
<td>Leland C.</td>
<td>At corporate limits...</td>
<td>737</td>
<td>99</td>
</tr>
<tr>
<td>At corporate limits...</td>
<td>766</td>
<td>99</td>
<td></td>
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These elevations, together with the flood plain management measures required by section 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 flood plain 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 proposed elevations will also 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 their contents.

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</thead>
<tbody>
<tr>
<td>Culver Creek.</td>
<td>At Eastern corporate limits, 779 ft downstream of Burlington, North R.B.</td>
<td>440</td>
<td>99</td>
</tr>
<tr>
<td>At western corporate limits, 779 ft upstream of Route 79.</td>
<td>447</td>
<td>99</td>
<td></td>
</tr>
<tr>
<td>At intersection of Culver St. and Second St.</td>
<td>447</td>
<td>99</td>
<td></td>
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These elevations, together with the flood plain management measures required by section 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 flood plain 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 proposed elevations will also 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 their contents.

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<tr>
<td>Futura Creek.</td>
<td>At corporate limits.</td>
<td>700</td>
<td>99</td>
</tr>
<tr>
<td>At upstream at dam....</td>
<td>707</td>
<td>99</td>
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<td>447</td>
<td>99</td>
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FEDERAL REGISTER, VOL. 42, NO. 239—WEDNESDAY, DECEMBER 14, 1977
PROPOSED RULES

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF LORDSBURG, HIDALGO COUNTY, N. MEX.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Lordsburg, Hidalgo County, N. Mex. These base (100-year) flood elevations are the basis for the flood plain 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Lordsburg, N. Mex. Send comments to: Mayor Warren White, 206 South Main Street, Lordsburg, N. Mex. 88045.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

These elevations, together with the flood plain management measures required by Section 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 flood plain 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 proposed elevations will also 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 their contents.

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<tr>
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<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
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<tbody>
<tr>
<td>Animas Wash</td>
<td>Approximately 60 ft upstream of U.S. Highway 50</td>
<td>4.24</td>
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<tr>
<td>Cemetery Wash</td>
<td>Pine St. (extended)</td>
<td>4.30</td>
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<tr>
<td>Oliver Wash</td>
<td>Just downstream of Mountain View Rd.</td>
<td>4.19</td>
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<tr>
<td>School Wash</td>
<td>Thirteenth St. (extended)</td>
<td>4.30</td>
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<tr>
<td>Cactus Dr.</td>
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<td>4.30</td>
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PATRICIA ROBERTS HARRIS,
Secretary.
PROPOSED RULES

DEPARTMENT OF THE INTERIOR
National Park Service

[36 CFR Part 9]
MINERALS MANAGEMENT

Comprehensive Regulations

AGENCY: National Park Service, USDI.

ACTION: Proposed rule.

SUMMARY: The intent of this action is to reorganize currently existing Part 9 into new Subparts that properly identify permitted activities regarding the exploration and development of mineral resources, including oil and gas, on lands or waters within any unit of the National Park System. This action also supplements general National Park Service regulations in order to conform with the requirements set by Congress in the enabling legislation for Big Cypress and Big Thicket National Preserves and additional park units. Primarily, however, the new regulations being proposed that will control all activities resulting from the exercise of rights to oil and gas not owned by the United States on land and waters within any unit of the National Park System. The key element in the proposed regulations is access. Anyone who is required by the regulations to obtain permission for access to undertake the defined activities will have to file a plan of operations which must conform to certain minimum standards. The plan must include provisions for the reclamation of the area disturbed by the operation, compliance with which is guaranteed by the posting of a bond in a sufficient amount to provide full reclamation should the operator default on his promise to reclaim.

DATES: Comments must be received on or before January 20, 1978, to be assured of receiving consideration.

ADDRESS: Mail comments to Director, Attn: Natural Resources Management Division (550), National Park Service, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
Neal G. Guse, Jr., Chief, Natural Resources Management Division, Room 3310, Interior Bldg., 18th and C Streets NW., Washington, D.C., telephone 202-343-3919 or 202-343-3347.

SUPPLEMENTARY INFORMATION:
The central focus of the proposed regulations is to insure that all activities resulting from the exercise of rights to oil and gas resources not owned by the United States on land and waters within any unit of the National Park System are conducted in a manner consistent with the purposes for which these units were established and created. Specifically, these purposes are to prevent or minimize damage to the environment and other resource values and to insure that all units of the National Park System are left unimpaired for the enjoyment of future generations. See 16 U.S.C. § 1.

On October 11, 1974, Public Laws 93-439 (16 U.S.C. §§ 698f-6P3m) and 93-440 (16 U.S.C. § 698f-6P6m) were passed by Congress, creating the Big Cypress and Big Thicket National Preserves, respectively. Each of these acts requires the Secretary of the Interior to promulgate and publish such rules and regulations as deemed necessary and appropriate to limit and control the use of Federal lands and waters with respect to certain activities, including exploration for and extraction of oil, gas, and other minerals. In addition to the need giving rise to the statutory requirement that rules and regulations be promulgated to limit and control such activities at the Big Thicket and Big Cypress National Preserves, in over fifty other units of the National Park System, situations exist where the land is owned in fee, including the right to the oil and gas, or where, in the transfer of the surface estate to the Federal Government, the rights to the oil and gas were reserved by the grantor. Therefore, in order to fulfill the legislative mandate of the National Park Service to effectively protect the various resources in these other units as well as in the National Preserves, these comprehensive regulations are being proposed.

When dealing with the situation where the mineral estate has been severed from the surface estate, the premise of these regulations is that, as a matter of law, the owner of the mineral estate has a right to reasonable access to the mineral. This includes the right to use, in a reasonable manner, as much of the surface as is reasonably necessary to extract the mineral he has reserved. Superimposed on these rights, however, is a Congressional determination that the area in which this mineral estate lies is meritorious of inclusion in the National Park System. Thus, added to the legal formula outlined above, is the factor of the responsibility of the National Park Service to exercise its regulatory authority in a manner which implements the Congressional designs in the establishments of the unit. These regulations are intended to accomplish that purpose within the existing legal framework concerning the rights of reserved mineral estate owners. There is no intent in these regulations to do more than insure that, where the surface estate is owned by the Federal Government, it is used in a reasonable manner.

Where there is a fee simple owner within a unit who seeks to exploit the oil and gas lying under his land, the intent of the regulations is to insure that federally owned resources in the vicinity are not threatened with destruction. This dichotomy of ownership status is reflected in the standards applied in the regulation of operations on these other units (see § 9.36) and in the extent to which reclamation is required (see § 9.37). The thrust of these proposed regulations is to control access on, across, or through federally owned lands by conditioning such access on the obtaining of an approved plan of operations describing the activities the operator is proposing to conduct in reclamation and/or development of oil and gas, the rights to which are not owned by the Federal Government. The purpose for requiring submission of a proposed plan of operations is to provide the National Park Service an opportunity to review the plan to effectively analyze the effects that the operations will have on the preservation, management and use of the unit. The requirements of the plan of operation are detailed in § 9.35 of the proposed regulations, and standards for approval are found in § 9.36.

In addition to the general requirements for the plan of operations found in § 9.35, the plan of operations must contain provisions for reclamation, the requirements for which are outlined in § 9.33. graceful use of water. By virtue of 16 U.S.C. 1A-2 the Secretary has only very limited authority to dispose of water to which the United States has a prior claim. This authority does not include allowing water use for oil and gas operations. Because the first duty of the Secretary in the administration of the National Park System is to maintain the natural system which the unit was designed to protect, no water to which
It is proposed that Part 9 of Title 36, Code of Federal Regulations, be amended and revised as follows:

1. Part 9—Delete old title: MINING AND MINING CLAIMS and substitute new title: MINERALS MANAGEMENT.

2. Redesignate existing Part 9, MINING AND MINING CLAIMS, §§ 9.1 through 9.18 as a new Subpart A entitled, MINING AND MINING CLAIMS.

3. Establish new Subpart B, entitled NON-FEDERAL OIL AND GAS RIGHTS, containing the following §§ 9.30 through 9.53.


5. Establish new Subpart D, entitled Minerals Other Than Oil and Gas Leasing containing §§ 9.100 through 9.139—Reserved.

New Subpart B reads as follows:

§ 9.30 Purpose and scope.

§ 9.31 Definitions.

§ 9.32 Access to lands.

§ 9.33 Transfers of interest.

§ 9.34 Use of water.

§ 9.35 Plan of operations.

§ 9.36 Plan of operations approval.

§ 9.37 Reclamation requirements.

§ 9.38 Supplementation or revision of plan of operations.

§ 9.39 Operating standards.

§ 9.40 Well records and reports, plots and maps, samples, tests, and surveys.

§ 9.41 Precaution necessary in areas where high pressures are likely to exist.

§ 9.42 Cable tool drilling preventions.

§ 9.43 Rotary tool drilling preventions.

§ 9.44 Open pits.

§ 9.45 Opening and control of "wild" wells.

§ 9.46 Handling of wastes.

§ 9.47 Accidents and fires.

§ 9.48 Workmanlike operations.

§ 9.49 Performance bond.

§ 9.50 Appeals.

§ 9.51 Use of roads by commercial vehicle.

§ 9.52 Damages and penalties.

§ 9.53 Public inspection of documents.


§ 9.30 Purpose and scope.


(b) Regulations controlling the exercise of minerals rights obtained under the Mining Law of 1872 in units of the National Park System can be found at 36 CFR 9.1—9.18. In areas where oil and gas is owned by the United States, leasing is authorized, the applicable regulations can be found at 43 CFR, Group 3100.

(c) These regulations allow operators flexibility to design plans of operations for the exploratory phase of oil and gas operations contemplated. Each plan need only describe those functions for which the operator wants immediate approval. For instance, it is impossible to define, at the beginning of exploratory activity, the design that production facilities might take. For this reason, an operator can submit a plan which applies only to the exploratory phase, allowing for careful preparation of the initial phase after exploration is completed. This allows for phased reclamation and bonding at a level commensurate with the level of operations approved.

§ 9.31 Definitions.

The terms used in this Part shall have the following meanings:

(a) Operator. A person conducting or proposing to conduct operations.

(b) Person. Any individual, firm, partnership, corporation, association, or other entity.

(c) Superintendent. The Superintendent, or his designee, of the unit of the National Park System involved, or the head of the Department of the Interior.

(d) Park Service. The National Park Service.

(e) Assistant Director. The Assistant Director, or his designee, of the National Park Service.

(f) Secretary. The Secretary of the Interior.

(g) OMB Circular A-107.

(h) National Park Service. The National Park Service, as set forth below.


IRA J. HUTCHISON, Acting Director.
§ 9.33 Transfers of interest.

(a) Whenever an owner of rights being exercised under an approved plan of operations sells, assigns, leases, or otherwise conveys all or any part of those rights, the Superintendent must be notified within 60 days after the transfer of the site(s) involved; the name and address of the person to whom an interest has been conveyed; and a description of the interest transferred. Failure to so notify the Superintendent shall make the transferee liable under his bond until such time as the new owner has filed with the Superintendent: (1) Either a statement ratifying the existing plan of operations and stating the interments therein; or (2) a new plan of operations void.

(b) The transferring owner shall remain responsible for compliance with the plan of operations until such time as the new owner has filed with the Superintendent: (1) A map or maps showing the site(s) involved; (2) The proposed plan of operations and stating the interments therein; or (3) A new plan of operations; and (2) suitable substitute performance bonds which comply with the requirements of § 9.48.

§ 9.34 Use of water.

No operator may use for operations any water from a point of diversion which is within the boundaries of any unit unless authorized in writing by the Regional Director. The Regional Director shall not approve a plan of operations requiring the use of water from such sources unless the operator shows either that his right to the use of the water is superior to any claim of the United States to the water, or where the operator's right is subordinate to that of the United States that the removal of the water from the water system will not damage the unit's resources.

§ 9.35 Plan of operations.

(a) No operations shall be conducted within any unit until a plan of operations has been submitted by the operator to the Superintendent and approved by the Regional Director. All operations within any unit shall be conducted in accordance with this plan of operations. Operators will be held fully accountable for their contractor's or subcontractor's compliance with the requirements of the approved plan of operations.

(b) The proposed plan of operations shall include, as appropriate to the proposed operations, the following:

(1) The names and legal address of the operator, the owner(s), or lessee(s) (if rights are state-owned) other than the operator, and the basic royalty owner(s);

(2) Reference or citation to the deed, designation of operator, or assignment of operating rights upon which the operator's right to conduct operations is based;

(3) The location, as determined by a registered surveyor, in acres and bounds from the nearest section corner of an established public land survey, or in areas where there are no public land surveys, by such other methods as are acceptable to the Superintendent.

(4) A map or maps showing the site of operations; existing and proposed access roads or routes to the site; the boundaries of proposed surface disturbance; the location of proposed drilling: location and description of all surface facilities, including tanks, sludge pits, and the location of tank batteries, production facilities, and production, gathering, and service lines; the well site layout; sources of construction materials; and the location of ancillary facilities.

(5) A description of the major equipment to be used in the operations, and of the proposed method of transporting such equipment to and from the site; the estimated time for each phase of operations for which approval is sought and the completion of operations;

(6) The geologic name of the surface formation;

(7) The proposed drilling depth, and the estimated tops of important geologic markers;

(8) The estimated depths at which anticipated water, brines, oil, gas, or other mineral bearing formations are expected to be encountered.

(9) The nature and extent of the known deposit to be produced and a description of the proposed operations, including:

(i) The proposed casing program, including the size, grade, and weight of each string, and whether it is new or used;

(ii) The proposed setting depth of each casing string, and the amount and type of cement, including additives, to be used;

(iii) The operator's minimum specifications for pressure control equipment which is to be used, a schematic diagram thereof showing sizes, pressure ratings, and the testing procedures and testing frequency;

(iv) The type and characteristics of the proposed circulating medium or mediums to be employed for rotary drilling purposes; the quantity of any and weighting material to be maintained;

(v) The testing, logging, and coring programs to be followed;

(vi) Any anticipated abnormal pressures or temperatures expected to be encountered, or potential hazards such as hydrogen sulfide gas, along with plans for mitigation of such hazards.

(11) A description of the steps to be taken to comply with the applicable operating standards of § 3.9 of this Part;

Designated roads. Those existing roads determined by the Superintendent in accordance with 36 CFR 3.26(b) and 4.19 to be open for the use of the general public or for the exclusive use of an operator.

1. Any viscous combustible liquid hydrocarbon or solid hydrocarbon substance easily liquidifiable on warming which occurs naturally in the earth, including drip gasoline or other natural condensates, to comply with the requirements of § 3.26(b) and 4.19 to be open for the use of the general public or for the exclusive use of an operator.

2. Except as provided by § 3.6(a), no permit shall be issued until the plan of operations void.

3. Failure to so notify the Superintendent shall make the transferee liable under his bond until such time as the new owner has filed with the Superintendent: (1) A map or maps showing the site(s) involved; (2) The proposed plan of operations and stating the interments therein; or (3) A new plan of operations; and (2) suitable substitute performance bonds which comply with the requirements of § 3.48.

4. No operator may use for operations any water from a point of diversion which is within the boundaries of any unit unless authorized in writing by the Regional Director. The Regional Director shall not approve a plan of operations requiring the use of water from such sources unless the operator shows either that his right to the use of the water is superior to any claim of the United States to the water, or where the operator's right is subordinate to that of the United States that the removal of the water from the water system will not damage the unit's resources.

5. All operations within any unit shall be conducted in accordance with the approved plan of operations. Operators will be held fully accountable for their contractor's or subcontractor's compliance with the requirements of the approved plan of operations.

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(i) The names and legal address of the operator, the owner(s), or lessee(s) (if rights are state-owned) other than the operator, and the basic royalty owner(s);

(ii) Reference or citation to the deed, designation of operator, or assignment of operating rights upon which the operator's right to conduct operations is based;

(iii) The location, as determined by a registered surveyor, in acres and bounds from the nearest section corner of an established public land survey, or in areas where there are no public land surveys, by such other methods as are acceptable to the Superintendent.

(iv) A map or maps showing the site of operations; existing and proposed access roads or routes to the site; the boundaries of proposed surface disturbance; the location of proposed drilling: location and description of all surface facilities, including tanks, sludge pits, and the location of tank batteries, production facilities, and production, gathering, and service lines; the well site layout; sources of construction materials; and the location of ancillary facilities.

(v) A description of the major equipment to be used in the operations, and of the proposed method of transporting such equipment to and from the site; the estimated time for each phase of operations for which approval is sought and the completion of operations;

(vi) The geologic name of the surface formation;

(vii) The proposed drilling depth, and the estimated tops of important geologic markers;

(viii) The estimated depths at which anticipated water, brines, oil, gas, or other mineral bearing formations are expected to be encountered.

(ix) The nature and extent of the known deposit to be produced and a description of the proposed operations, including:

(i) The proposed casing program, including the size, grade, and weight of each string, and whether it is new or used;

(ii) The proposed setting depth of each casing string, and the amount and type of cement, including additives, to be used;

(iii) The operator's minimum specifications for pressure control equipment which is to be used, a schematic diagram thereof showing sizes, pressure ratings, and the testing procedures and testing frequency;

(iv) The type and characteristics of the proposed circulating medium or mediums to be employed for rotary drilling purposes; the quantity of any and weighting material to be maintained;

(v) The testing, logging, and coring programs to be followed;

(vi) Any anticipated abnormal pressures or temperatures expected to be encountered, or potential hazards such as hydrogen sulfide gas, along with plans for mitigation of such hazards.

(x) A description of the steps to be taken to comply with the applicable operating standards of § 3.9 of this Part;
for the Regional Director under § 9.38(q). No operations shall be conducted on a site within an unit, access to which is on, across or through National Park System lands, or waters except in accordance with an existing permit or an approved plan of operations.

§ 9.36 Plan of operations approval.

(a) The Regional Director shall not approve a plan of operations:

(1) Unless the operator shows that the operations are conducted in a manner which:

(i) Results in diligent development and efficient resource recovery, as permitted by the operation methods least damaging to the federally owned land and resources of the unit;

(ii) Affords adequate environmental safeguards;

(iii) Results in a minimum amount of surface disturbance to the unit;

(iv) Assures the protection of public health and safety; and

(v) Conforms with the best available practice;

(ii) The anticipated direct and indirect effects of the operations on the unit's natural, cultural, social, and economic environment,

(iii) Steps to be taken to insure minimize the amount of surface disturbance and to mitigate any adverse environmental effects, and a discussion of the impacts which cannot be mitigated,

(iv) Measures to protect surface and subsurface waters by means of casing and cement, etc.

(v) All technologically feasible alternative methods of operation and the environmental effects of each, and

(vi) The effects of the steps to be taken to comply with the reclamation plan;

(b) Any additional information that is required to enable the Regional Director to effectively analyze the effects that the operations will have on the preservation, management and public use of the unit, and to make a decision regarding approval or disapproval of the plan of operations and the amount of the performance bond to be posted;

(c) Information and materials submitted in compliance with this section will not constitute a plan of operations until all information required by § 9.35(b)(1)–(18) has been submitted and determined adequate by the Regional Director;

(d) In all cases the plan of operations must consider and discuss the unit's Statement for Management and other planning documents as furnished by the Superintendent, and activities to control, prevent, or mitigate damage to the recreational, biological, scientific, cultural, and scenic resources of the unit, and any reclamation procedures suggested by the Superintendent.

(e) Any person conducting operations on (date of publication) in accordance with a permit, may continue to do so for the term of that permit. After expiration of existing permits, no operations shall be conducted except under an approved plan of operations unless access is extended under an existing permit by the Regional Director under § 9.38(q). No operations shall be conducted on a site within an unit, access to which is on, across or through National Park System lands, or waters except in accordance with an existing permit or an approved plan of operations.

§ 9.37 Performance bond.

(a) Payment and posting of bond. In order to protect the public interest, the Regional Director may require the performance bond to be posted.

(b) Determination of amount of bond. The Regional Director shall determine the amount of the bond or security deposit (See § 9.49):

(1) In the event of a violation of the terms of the bond or security deposit, the amount of the bond or security deposit may be increased by an amount not to exceed $3,000 per violation;

(2) If any violation of the terms of the bond or security deposit involves a violation of a Federal, State, or local law or regulation, including the terms of the bond or security deposit.

(c) Period of bond or security deposit.

(1) The Regional Director shall determine the period for which the bond or security deposit shall remain in effect.

(2) Where the plan of operations does not conform with the best available practice, the period specified shall constitute an approval of the plan of operations, and shall extend until all information required by § 9.35 applicable to the kinds of operations and amount of the bond or security deposit (See § 9.49): (2) (c) of the National Environmental Policy Act of 1969.

(d) Prior to approval of a plan of operations, the Regional Director shall determine whether any properties included in, or eligible for inclusion in, the National Register of Historic Places or National Registry of Natural Landmarks may be affected by the proposed operations. This determination will require the acquisition of adequate information, such as that resulting from field surveys, in order to properly determine the presence and significance of cultural resources within the areas to be affected by the operations. Whenever notice is given that properties or properties eligible for inclusion in the National Register would
be affected by operations, the Regional Director shall comply with section 106 of the National Historic Preservation Act of 1966 as implemented by 36 CFR, Part 800.

(1) Where the surface estate of the site is owned by the United States, the operator shall not, without written authorization of the Superintendent, remove, alter, destroy, or collect any site, structure, object, or other value of historic, archeological, or other cultural scientific importance in violation of the Antiquities Act (16 U.S.C. 431—433) (see 45 CFR, Part 3).

(2) Once approved operations are commenced, the operator shall immediately bring to the attention of the Superintendent any cultural and/or scientific resource encountered that might be altered or destroyed by his operation and shall leave such discovery intact until told to proceed by the Superintendent. The Superintendent will evaluate the discoveries brought to his attention, and will determine whether or not the discoveries should remain intact until ten (10) working days after which action will be taken with respect to such discoveries.

(i) The operator shall protect all survey monuments, witness corners, reference monuments and bearing trees against destruction, obliteration, or damage from operations and shall be responsible for the restoration thereof. All monuments and bearing trees which are destroyed, obliterated, or damaged by such operations shall be restored by the Regional Director in accordance with § 9.37 Reclamation requirements.

(ii) Any proposal initiated under paragraph (a)(2), of this section is unacceptable unless it provides for the safe movement of native wildlife, the reestablishment of native vegetative communities, the normal flow of surface and subsurface waters, and the return of the area to a condition which does not jeopardize visitor safety or public use of the unit.

§ 9.38 Supplementation or revision of plan of operations.

(a) An approved plan of operations may be supplemented or revised to adjust the plan to changed conditions or to address conditions not previously contemplated.

(b) Approval of each plan of operations is expressly conditioned upon the Superintendent having such reasonable access to the site as is necessary to properly monitor and insure compliance with the plan of operations.

§ 9.39 Operating Standards.

(a) Surface operations shall at no time be conducted within 500 feet of the banks of perennial, intermittent, or ephemeral watercourses, or the high pool shoreline of natural or man-made impoundments; except in Big Cypress National Preserve, or within 500 feet of any structure or facility (excluding roads) used for interpretation, public recreation, or firefighting or any facilities specifically authorized for environmental reasons by an approved plan of operations.

(b) When drilling or producing operations are suspended for 24 hours or more, but less than 15 days, the wells shall be shut-in by closing wellhead valves. When producing operations are suspended for 30 days or more, a suitable plugging and capping arrangement acceptable to the Superintendent shall be used to close the wells.

(c) The operator shall mark each and every operating derrick and pump in conspicuous place with his name or the name of the owner, and the number and location of the well, and shall take all necessary means and precautions to prevent these markings from being removed.

(d) Around existing or future installations, e.g., wells, storage tanks, all high pressure facilities, fences shall be built for protection of unit visitors and wildlife; the conductor string of casing, flow and kill lines, and all other fittings acceptable to the Superintendent shall be used to close the wells.

§ 9.40 Well records and reports, plots and maps, samples, tests and surveys.

Any technical data gathered during the drilling of any well, including daily drilling reports and geological reports, which is submitted to the State pursuant to State regulation, or to any other bureau or agency of the federal government shall be available for inspection by the Superintendent upon his request.
§ 9.42 Cable tool drilling precautions.

When drilling with cable tools, the operator shall provide at least one properly prepared, impermeable lined slush pit, into which must be deposited mud and cuttings from clay or shale free of sand that will be suitable for the mudding of a well, or the well or required, the operator shall provide a second such pit for sand pumping and other materials obtained from the well during the process of drilling that are not suitable for mudding.

§ 9.43 Rotary tool drilling precautions.

When drilling with rotary tools, the operator shall provide, when required by the Superintendent, an impermeably lined auxiliary mud pit or tank of suitable capacity and maintain therein a supply of mud having the proper characteristics for emergency use in case of blowouts or lost circulation.

§ 9.44 Open pits.

Any pit provided by the operator under §§ 9.42 or 9.43 shall be properly fenced in a manner acceptable to the Regional Director to exclude terrestrial wildlife and shall be kept free of any surface oil skin.

§ 9.45 Open flows and control of "wild" wells.

(a) The operator shall take all technologically feasible precautions to prevent any oil, gas, or water well from blowing open or becoming "wild," and shall take immediate steps and exercise due diligence to bring under control any "wild" well, or burning oil or gas well.

(b) The operator agrees, as a condition for receiving an approved plan of operations, that he will hold harmless the United States and its employees from any damages or claims for injury or death of persons or damage or loss of property by any person or persons arising out of any acts or omissions by the operator, his agents, employees or subcontractors done in the course of operations.

§ 9.46 Handling of wastes.

Oilfield brine, and all other waste and contaminating substances must be kept in the smallest practicable area, must be confined so as to prevent escape as a result of percolation, rain, high water or other causes, and such wastes must be stored and disposed of or removed from the area as quickly as practicable in such a manner as to prevent contamination, pollution, damage or injury to the lands, water (surface and subsurface), facilities, cultural resources, wildlife, vegetation or visitors to the unit.

§ 9.47 Accidents and fires.

The operator shall take all technologically feasible precautions to prevent accidents and fires, shall notify the Superintendent within 24 hours of all accidents involving serious personal injury or death, or fires on the site, and shall submit a full report thereon within 90 days.

§ 9.48 Workmanlike operations.

The operator shall carry on all operations and maintain the site at all times in a safe and workmanlike manner, having due regard for the preservation of the environment of the unit. The operator shall take reasonable steps to prevent and shall remove accumulations of oil or other hazardous materials from the vicinity of well locations and lease tanks, and shall remove from the property or store in orderly manner all scrap or other materials not in use.

§ 9.49 Performance bond.

(a) Prior to approval of a plan of operations, the operator shall be required to file a suitable performance bond with satisfactory surety, payable to the Secretary or his designee. The bond shall be conditioned upon faithful compliance with all applicable regulations, and the plan of operations as approved, revised or supplemented as required.

(b) In lieu of a performance bond, an operator may elect to deposit with the Secretary, or his designee, cash or negotiable bonds of the U.S. Government. The cash deposit or the market value of such securities shall be at least equal to the required sum of the bond. When bonds are to serve as security, there must be provided to the Secretary a power of attorney.

(c) The bond or security deposit shall be in an amount equal to the estimated cost of restoring Federal lands damaged or destroyed as a result of the operations, plus the estimated cost of completion of reclamation requirements either in their entirety or in a phased schedule for their completion as set forth in the approved, supplemented or revised plan of operations.

(d) In the event that an approved plan of operations is revised or supplemented in accordance with § 9.38, the Superintendent may adjust the amount of the bond or security deposit to conform to the modified plan of operations.

(e) The Superintendent and his surety's responsibility and liability under the bond or security deposit shall continue until such time as the Superintendent determines that successful reclamation of the area of operations has occurred and the well has been properly plugged and abandoned.

(f) When all required reclamation requirements of an approved plan of operations are completed, including proper abandonment of the well, the Superintendent shall notify the operator that the period of liability under the bond or security deposit has been terminated.

§ 9.50 Appeals.

(a) Any operator aggrieved by a decision of the Regional Director in connection with the regulations in this Part may file with the Regional Director a written statement setting forth in detail the respects in which the decision is contrary to, or in conflict with, the facts, the law, these regulations, or is otherwise in error. No such appeal will be considered unless it is filed with the Regional Director within thirty (30) days after the date of notification to the operator of the action or decision complained of. Upon receipt of such written statement from the aggrieved operator, the Regional Director shall promptly review the action or decision and either reverse his original decision or prepare his own statement, explaining his decision and the reasons therefor, and forward the statement and record on appeal to the Director, National Park Service, for review and decision. The Regional Director's statement shall be furnished to the aggrieved operator, who shall have ten (10) days within which to file exceptions to the Regional Director's decision. The Department has the discretion to initiate a hearing before the Office of Hearing and Appeals in a particular case. (See 44 CFR 4.700.)

§ 9.51 Use of roads by commercial vehicles.

(a) After (date of publication) no commercial vehicle shall use roads ad-
ministered by the National Park Service without being registered with the Superintendent. Roads must be used in accordance with procedures outlined in an approved plan of operations.

(1) A fee shall be charged for such registration and use based upon a posted fee schedule. The fee schedule posted shall be subject to change upon 60 days notice.

(2) An adjustment of the fee may be made at the discretion of the Superintendent where a cooperative maintenance agreement is entered into with the operator.

(b) No commercial vehicle which exceeds roadway load limits specified by the Superintendent shall be used on roads, administered by the National Park Service unless authorized by written permit from the Superintendent.

(c) Should a commercial vehicle used in operations cause damage to roads, resources or other facilities of the National Park Service, the operator shall be liable for all damages so caused.

§ 9.52 Damages and penalties.

(a) As a condition to the approval of any plan of operations, the operator shall be held strictly liable for any damage to Federal lands or resources resulting from an oil spill, the escape of gas or wastes, or fire caused by his operations.

(b) Undertaking any operation within the boundaries of any unit in violation of this Part shall be deemed a trespass against the United States and shall be cause for revocation of approval of the plan of operations. The penalty provisions of 36 CFR Part 1 are inapplicable to this Part.

§ 9.53 Public inspection of documents.

(a) Upon receipt of the plan of operations the Superintendent shall publish a notice in the Federal Register advising the availability of the plan for public review.

(b) Any document required to be submitted pursuant to the regulations in this Part shall be made available for public inspection at the Office of Superintendent during normal business hours. This does not include those records only made available for the Superintendent's inspection under § 9.40 of this Part. The availability of such records for inspection shall be governed by the rules and regulations found at 43 CFR Part 2.
SECURITIES AND EXCHANGE COMMISSION

ISSUER TENDER AND EXCHANGE OFFERS

Proposed Rule and Related Schedule
PROPOSED RULES
which, in part, follow those currently required only in connection with tender and exchange offers by persons other than issuers.


For further information contact:

For FURTHER INFORMATION CONTACT:

All submissions should refer to File No. 67-731 and will be available for public inspection at the Commission’s Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

I. BACKGROUND

The Williams Act Amendments to the Act provided for federal regulation of certain issuer tender offers. Congress specified exceptions. The 1968 takeover legislation was aimed specifically at tender offers which involved a potential shift of control. Accordingly, the initial version of S. 510 excluded acquisitions through tender offers by issuers and, if adopted, would not apply to issuer tender offers announced prior to the effective date.

II. THE NEED FOR RULEMAKING

The Commission believes that this indirect regulation of some issuer tender offers, while consistent with the need to protect investors, must be made, pursuant to paragraph (f) of the Rule, prior to the tender offer purchases. If granted, the exemption customarily permits the purchases to be effected only pursuant to specified terms and conditions of a Rule 10b-6 exemption which, in the case of a tender or exchange offer, generally follow the requirements of Sections 14(d) (5)–(7) of the Act.
pursuant to Section 13 of the Act and all closed-end investment companies registered under the Investment Company Act of 1940, but also to tender offers by issuers required to file periodic reports. The proposals will apply irrespective of whether, for purposes of Rule 10b-6, a distribution of the subject security exists. The Commission believes that, if adopted, the proposals will afford issuers a degree of certainty in planning tender offers for their own securities and will provide securityholders with substantive protections and disclosure more closely paralleling that afforded securityholders in tender offers subject to the Williams Act.

III. SUMMARY OF PROPOSED RULE 13e-4

1. PERIOD OF THE TENDER OFFER

Paragraph (b) (3) of Proposed Rule 13e-4 would require that an issuer tender offer remain open for at least fifteen business days after the time definitive copies of the offer are first published, sent or given to securityholders.29 There is presently no minimum time period for the duration of tender offers although a seven day withdrawal period required by Section 14(d) (5) of the Act has had the effect of establishing a seven day minimum tender offer period. The Commission believes that a minimum requirement is necessary to insure that all securityholders are given a reasonable opportunity to consider the terms of and participate in the tender offer.

2. SUBJECTS OF THE OFFER

Paragraph (b) (4) of Proposed Rule 13e-4 would require that any tender offer by an issuer for its securities be made to all holders of the class of subject securities, with one exception. The exception would involve so-called “odd lot” tender offers by issuers.

The stated corporate justification for odd lot tender offers is normally the high cost of servicing holders of a small number of securities relative to the cost of servicing a securityholder actually or potentially holding an odd lot of securities. In the case of low-priced securities, the annual cost of servicing a securityholder actually may equal or exceed the total market value of the issuer’s securities held by an odd lot securityholder.

Odd lot tender offers can be beneficial to both the issuer and its remaining securityholders and to the odd lot holders who are generally given the opportunity to dispose of their securities. For the foregoing reasons, Proposed Rule 13e-4 would provide special treatment for tender offers by an issuer to owners of less than one hundred shares of that issuer’s securities. Thus, Proposed Rule 13e-4 would permit a tender offer to be made by an issuer to persons who own, of record or beneficially, an aggregate of less than one hundred shares of the issuer’s subject securities. Clause (B) of the proviso to paragraph (b) (6) would exclude odd lot tender offers from the Rule’s requirement of pro-rata acceptance by permitting the issuers to accept, in full, securities tendered by odd lot holders who tender all their securities. Finally, the proviso to paragraph (b) (7) would permit the price offered as an odd lot offer to be expressed in terms of a formula rather than a fixed price.

The treatment in Proposed Rule 13e-4 of odd lot tender offers may be inappropriate in a “Rule 13e-3 transaction,” particularly in view of the requirement in Proposed Rule 13e-3 that the transaction be fair. The Commission requests comment on whether the offer which would be “Rule 13e-3 transaction,” should either afford odd lot holders of subject securities different treatment than round lot holders of subject securities or require reconsideration.

3. WITHDRAWAL RIGHTS

Paragraph (b) (5) of Proposed Rule 13e-4 would except from all proration provisions 30 securities and money paid for such securities which are tendered pursuant to the offer may be withdrawn at any time until the expiration of at least ten business days after the time the offer is first published, sent or given to securityholders.29 If the tendered securities have not been accepted for payment, at any time during the seven business days following the date a Schedule 14D-1 (17 CFR 240.14d-100) is filed with the Commission relating to a competing tender offer by a subsequent bidder. In addition, securityholders may withdraw their securities at any time after forty business days from the date the offer commences or if the tendered securities have not been accepted for payment. By assuring securityholders who tender their shares immediately after the offer commences a short period within which to reconsider, paragraph (b) (5) of Proposed Rule 13e-4 would protect securityholders from being pressured into accepting the tender offer prior to the time when all material concerning the offer are fully disclosed and disseminated. The right of withdrawal after forty business days, if the tendered securities have not been accepted for payment, by persons who have not have his securities “locked in” for an unreasonable amount of time.29 In the interim, the issuer is provided with a degree of certainty respecting the success of the offer and can extend, terminate, or revise the offer accordingly.

The additional withdrawal rights for seven business days after a Schedule 14D-1 relating to a competing offer by a subsequent purchaser as filed with the Commission is designed to permit a securityholder the opportunity to respond to a more favorable offer.

4. PRO RATA ACCEPTANCE

Paragraph (b) (6) of Proposed Rule 13e-4 would provide for pro rata acceptance where a greater number of securities are deposited within ten business days from the commencement of the offer than the issuer will accept. This provision is based on Section 14(a) (6) of the Act, which was designed to “allow all shareholders a fair opportunity to participate in the offer.”29 Paragraph (b) (6) of Proposed Rule 13e-4 would not impose restrictions on the method of accepting tendered securities after ten business days from the commencement of the offer unless the consideration is increased.

Clause (A) of the proviso to paragraph (b) (6) of Proposed Rule 13e-4 would permit the issuer to select a longer period of time, including the entire length of the tender offer, during which pro rata acceptance of tendered securities would occur. Thus, an issuer could stipulate that all securities tendered during the period of the tender offer would be accepted on a pro rata basis regardless of when such securities were tendered.

Finally an exception to the pro rata acceptance provision would be permitted by clause (B) of the proviso to paragraph (b) (6) of Proposed Rule 13e-4, which would permit an issuer to accept, in full, securities tendered by holders of less than a specified number of such securities, not to exceed an odd lot, who tender their securities on a pro rata basis.

Claude (C) of the proviso to paragraph (b) (6) of Proposed Rule 13e-4 would permit an issuer to offer securityholders the opportunity to designate that their tendered securities be accepted on an “all or none” or “part or none” basis rather than pro rata.

5. CONSIDERATION

Paragraph (b) (7) of Proposed Rule 13e-4 would require that the same consideration be offered to all securityholders and that any increase in consideration subsequently offered be paid for all securities previously tendered. Section 14(d) (7) of the Act presently requires that the consideration in a tender offer for equity securities and, prior to the expiration thereof, increases the consideration to be paid for such securities, must pay the increased consideration to all securityholders who previously tendered their securities pursuant to the offer, without regard to whether such securities had been accepted before the increase in consideration was announced. This provision was designed “to assure fair treatment of those persons who tender their shares at the beginning of the tender period, and to assure equality of treatment among all shareholders who tender their shares prior to the offer.” The Commission believes that the principle of fair treatment embodied in Section 14(d) (7) of the Act should be equally applicable to tender offers by issuers.

6. ABSTENTION FROM OTHER PURCHASES OF THE SUBJECT SECURITY UNTIL TEN BUSINESS DAYS AFTER THE OFFER EXPIRES

Paragraph (b) (3) of Proposed Rule 13e-4 would prohibit purchases of the subject security by the issuer until at least ten business days after the offer expires. This provision is intended to supplement and expand the protection afforded by Rule 10b-13.29 The Commission believes that a minimum requirement is necessary to assure that all securityholders are given a reasonable opportunity to consider the terms of and participate in the tender offer.
mission believes that a period of ten business days after a tender offer is sufficient to permit the impact of the offer on the market to subside before subsequent purchases are made. With respect to a tender offer by an issuer which has been deemed to constitute a "Rule 13e-3" transaction within the contemplation of Proposed Rule 13e-3(a) (4) (see pages 2-3 supra), the Commission wishes commentators to specifically address the question of whether or not post-tender offer purchases, the approach of paragraph (b) (8) of Proposed Rule 13e-4 or a modification of the approach of Proposed Rule 14d-8, which would leave only the best price provision applicable to a bidder's post-tender offer purchases, is more appropriate for going private tender offers.

V. ADDITIONAL INQUIRIES

A. DISSEMINATION OF TENDER OFFER MATERIAL TO BENEFICIAL OWNERS

Paragraph (b) (2) of Proposed Rule 13e-4 would require that a statement containing the information required by Proposed Schedule 13E-4 (or a fair and accurate summary thereof) be published, sent or given to all holders of the subject securities. If the issuer sends such a statement (or summary thereof) to record holders, the issuer must also make a reasonable effort to send the information to beneficial holders if it follows Instruction (1) (B) of Proposed Schedule 13E-4 which is similar to Rule 14b-1 under the Act (17 CFR 240.14b-1) relating to the procedures for the dissemination of proxies and annual reports.

B. INCORPORATION BY REFERENCE

The Commission is soliciting comment on the appropriateness of utilizing some or all of the existing statutory tender offer provisions and existing or proposed Commission rules which apply to third party offers, through incorporation by reference, in connection with issuer tender offer regulation. Thus, for example, Rule 13e-4 could provide that the disclosure requirements of paragraph (b) (1) of the Proposed Rule would be satisfied if the issuer files a Schedule 13D-1 (modified, where appropriate, to reflect disclosure deemed appropriate for issuers only) rather than a separate Schedule 13E-4.

C. THE NEED FOR A RECOMMENDATION STATEMENT

Although it does not appear likely that a recommendation statement would generally be utilized in connection with a tender offer by an issuer for its own securities, situations may exist where officers, directors or securityholders of an issuer determine the terms and conditions of an issuer tender offer. Commentators are asked to submit their views on the need for, and content of, a recommendation statement which would be utilized in connection with an issuer tender offer subject to Rule 13e-4.

D. RESTRICTIONS ON THE DURATION OF AN OFFER

There is presently no restriction on the length of time a tender offer (whether by an issuer or a third party) may remain outstanding. The Commission requests comments on whether and, if so, to what extent, it would be appropriate to limit the duration of a tender offer by an issuer for its own securities.

E. CERTAIN ADDITIONAL WITHDRAWAL RIGHTS

Notwithstanding the provisions of paragraphs (b) (6) of Proposed Rule 13e-4,

See footnotes at end of article.
which permit a tendering securityholder to withdraw his securities after the expiration of forty business days from the commencement of the tender offer if such securities have not been accepted for payment by the issuer, a tendering securityholder may nonetheless be deprived of access to his securities for an extended period of time. Accordingly, the Commission proposes to extend the period during which a proposed Rule's forty business day withdrawal period should be shortened and whether the ten business day unconditional withdrawal period in the proposed Rule should be lengthened.

**EFECTS ON COMPETITION**

The Commission is not aware of any burden on competition imposed by proposed Rule 13e-4 and Schedule 13E-4 that would not be necessary or appropriate in furtherance of the purposes of the Act; however, comments on the impact of such proposals are requested.*

*Publishing Long-form publication.

**REQUEST FOR COMMENT**

Accordingly, it is proposed to amend Title 17 of the Code of Federal Regulations, Chapter II, by adding § 240.13e-4 and §240.13E-4, pursuant to the authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-39, 89 Stat. 97 (June 4, 1975)). Rule 13e-4 and Schedule 13E-4 are proposed pursuant to Sections 13(b), 10(b), 13(c), 14(e) and 23(a) of the Act (15 U.S.C. 78c(b), 1(b), 1(e), 1(e) and 23(a) of the Act) to create a new requirement in light of the purposes of the Act are specifically requested.*

**PROPOSED RULES**

(1) The issuer files ten copies of an Issuer Tender Offer Statement on Schedule 13E-4 (§ 240.13E-100) including all exhibits, with the Commission.

(2) A statement containing the information required by paragraph (b)(1) of this section, of a fair and adequate summary thereof, is published, sent or given to all holders of the subject securities, and, if the issuer sends such a statement to any securityholder, it should be reasonable to send to all securityholders of such class of its equity securities unless simultaneously with or prior to the time the tender offer is first published, sent or given to securityholders.

(3) The tender offer shall remain open until the expiration of at least fifteen business days from the time definitive copies of the offer are first published, sent or given to securityholders.

(4) The tender offer shall be made to all securityholders of the class of security subject thereto: Provided, however, That this provision shall not prohibit a tender offer which is limited to persons who own, of record or beneficially, an aggregate of less than one hundred shares of such security.

(5) Securities tendered pursuant to the tender offer may be withdrawn at any time during the seven business days following the date a Schedule 14D-1 (§ 240.14d-100) is filed with the Commission relating to a competing tender offer by a subsequent bidder, and at any time after forty business days from the date of the original tender offer or request or invitation.

(6) If the number of securities tendered within ten business days as of the date of the original tender offer or request or invitation is less than one hundred shares, the issuer shall pay all tendered securities accepted, to so designate when tendering their securities: Provided, however, That this provision shall not prohibit the issuer from (i) accepting all securities tendered during the term of the offer on a pro rata basis; or (ii) accepting all securities tendered by any securityholder who holds less than one hundred shares of such security who tender all their securities, before prorating securities tendered by others; or (iii) permitting securityholders who tender all securities held by them and who desire to have either all or none, or at least a minimum number or none, of their tendered securities accepted, to so designate when tendering their securities.

(7) The issuer offers the same consideration to all securityholders; and if, after the tender offer is published, sent or given, the consideration offered is increased, the issuer pays such increased consideration to all holders of such securities who previously have tendered their securities: Provided, however, That in connection with a tender offer made only to holders of less than one hundred shares of such security the terms of the offer provide for a method for determining the consideration offered to all holders of less than one hundred shares.

(8) No purchases of such securities (otherwise than pursuant to the offer) are made by the issuer until at least ten business days after the termination of the offer.

(9) The issuer either pays the offered consideration or the securities deposited by or on behalf of securityholders within a reasonable time after the termination of the tender offer.

(10) This rule shall not prohibit:

(a) Calls or redemptions of any security in accordance with the terms and conditions of the governing instruments;

(b) Offers to purchase securities evidenced by a scrip certificate, order form or similar document which represents a fractional interest in a share of stock or similar security;

(c) Offers to purchase securities pursuant to a statutory procedure for the purchase of dissenting securityholders' securities;

(d) Any other transaction or transactions if the Commission, upon written request or upon its own motion, exempts such transaction or transactions, either unconditionally, or on specified conditions, as not constituting a manipulative or deceptive device or contrivance or a fraud, deceit, or manipulative act or practice comprehended within the purpose of this section.

**INSTRUCTION**

(1) The tender offer shall be deemed "published, sent or given to securityholders" for purposes of this section if the issuer complies fully with one of the provisions of this section.

(A) Long-form publication. Publishing the formal offer containing the information required by paragraphs (b)(1) of this section in a newspaper which, depending on the facts and circumstances involved, may require publication in a newspaper with a national circulation or publication in a newspaper with a metropolitan or regional circulation;
PROPOSED RULES

(B) Use of stockholder and other lists. including other lists that contain information required by paragraphs (b)(1) and (2) of this section to all persons named on the issuer's most recent list of stockholders, and furnishes five copies of the formal offer requested by brokers, banks and similar persons whose names appear on or whose names are listed as beneficial owners of securities or who are listed as participants on the most recent security position listing of any clearing agency is required to be circulated to all securityholders or who are listed as participants on the most recent security position listing of any clearing agency which secures a deposit of the sum of the total amounts of securities owned by such persons in forward such formal offer to the beneficial owners of such securities in a timely manner and undertaking to pay the reasonable expenses of such persons in forwarding such information;

or (C) Summary publication. Publishing a summary advertisement of such tender offer in a newspaper which, depending on the facts and circumstances involved, may require publication in a newspaper with a national circulation or may only require publication in a newspaper with metropolitan or regional circulation. The summary advertisement must include:

(1) The identity of the issuer;
(2) The amount and class of securities being sought and the price being offered;
(3) The scheduled expiration date of the tender offer and whether it may be extended;
(4) The general purpose of the tender offer;
(5) Appropriate instructions for record holders and beneficial owners of securities of the class being sought regarding how to obtain promptly, at the expense of the issuer, the information required by paragraph (b)(1) of this section.

If applicable, the information called for by Items 2-7, inclusive, shall be given with respect to (i) each partner of such partnership; (ii) each person who is a general partner or who functions as a general partner of such limited partnership; (iii) each member of such group; and (iv) each person controlling such partner or member. If the issuer is a corporation or is organized as a group, the information called for by Items 2-7, inclusive, shall be given with respect to (a) each executive officer and director of such corporation, and each executive officer controlling such corporation; and (b) each executive officer and director of any corporation organized as a group, whether such executive officer shall mean the president, secretary, treasurer and vice president in charge of a principal business division or department (including earning and spending functions) and any other person who performs similar policy-making functions for the corporation in the performance of his duties and a response to an item in the statement is made with respect to the issuer referred to in this Item, there is a specific indication to the contrary.

D. Upon termination of the tender offer, the issuer shall promptly file a final amendment to Schedule 13E-4 containing all material changes in the items in that Schedule and stating that the tender offer has terminated, the date of such termination and the results of such tender offer.

Item 1.—Security and issuer. (a) State the name of the issuer and the address of its principal executive office.
(b) State the exact title and the number of shares of outstanding of the class of securities being sought, the maximum amount of such securities as were sought and the consideration being offered therefor; whether any such securities are to be purchased from an aside market and the aggregate consideration to be offered therefor.
(c) Identify the principal market in which such securities are being traded and state the registered number of such securities for which the tender offer is being made.

Item 2.—Source and amount of funds or other consideration. (a) State the source and total amount of funds or other consideration for the purchase of the maximum number of securities for which the tender offer is being made.
(b) If all or any part of such funds or other consideration is or is expected to be directed or indirectly, borrowed for the purpose of the tender offer:
(1) Provide a summary of each loan agreement or arrangement containing the identification of the lender, the term, the collateral, the stated and effective interest rates, and other provisions relevant to such loan agreement; and
(2) Briefly describe any plans or arrangements to finance or repay such borrowings, or such securing as may have been made, make a statement to that effect;
(c) If the source of all or any part of the funds to be used in the tender offer is a loan made in the ordinary course of business by a bank as defined by Section 8(a)(6) of the Act, the issuer filing the Schedule 13E-4 may request, in accordance with the provisions of Rule 240-2 (17 CFR 240.240-2) under the Act, to be permitted in such bank not be made available to the public.

Item 3.—Purpose of the tender offer and plans, arrangements, or understandings with respect to purchase or disposition of the securities. The purpose or purposes of the tender offer, whether the securities are to be retired, held in the treasury of the issuer, or otherwise disposed of, including, indicating such disposition, and any plans or propositions which relate to or would result in:
(a) The establishment of a corporate transaction, such as a merger, reorganization or liquidation, involving the issuer or any of its subsidiaries;
(b) A sale or transfer of a material amount of assets of the issuer or any of its subsidiaries;
(c) Any change in the present board of directors or management of the issuer including, but not limited to, any plan or proposal to change the number or the term of directors or to fill any existing vacancies on the board;
(d) Any other material change in the present capitalization or dividend policy of the issuer;
(e) Any other material change in the issuer's corporate structure or business, including, if the issuer is a registered closed-end investment company, the rate of interest it is paying on any securities it is permitted to issue in its investment policy for which a vote would be required by Section 13 of the Investment Company Act of 1940;
(f) Causing a class of equity securities of the issuer to be delisted from a national securities exchange or to cease to be listed on an inter-dealer quotation system of a registered national securities association; or
(g) A class of equity securities of the issuer becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Act.

The suspension of the issuer's obligation to file reports pursuant to Section 15(d) of the Act.

Item 4.—Interest in securities of the issuer. A description of any business, investment or other consideration which resulted in any favorite or in any arrangement or agreement to which such person was a party or in any arrangement or agreement containing the identification of the parties to such arrangement or agreement and the material terms thereof. If no such plans or arrangements have been made, make a statement to that effect.

Item 5.—Contracts, Arrangements, Understandings or Relationships With Respect to the Issuer's Securities. Describe any contract,
arrangement, understanding or relationship (whether or not legally enforceable) between the issuer (including those persons enumerated at Item 6) and any person with respect to any securities of the issuer (including, but not limited to, any contract, arrangement, understanding or relationship concerning the transfer or the voting of any of such securities, joint ventures, loan or option arrangements, puts or calls, agreements limiting or affecting sale, loss, or the giving or withholding of proxies) naming the persons with whom such contracts, arrangements, understandings or relationships have been entered into and giving the material provisions thereof. Include such information for any of such securities that are pledged or otherwise subject to a contingency, the occurrence of which would give another person the power to direct the voting or disposition of such securities, except that disclosure of standard default and similar provisions contained in loan agreements need not be included.

Item 6.—Persons retained, employed or to be compensated. Identify all persons and classes of persons employed, retained or to be compensated by the issuer or any persons on whose behalf the issuer is to be made by or on behalf of the issuer, to make solicitations or arrangements with persons employed, retained or to be compensated.

Item 7.—Additional information. If material to a decision by a securityholder whether to sell, tender or hold securities being sought in the tender offer, furnish information including, but not limited to, the following:

(a) Any present or proposed contracts, arrangements, understandings or relationships, in the course of which the issuer is to be made by or on behalf of the issuer, to make solicitations or recommendations in connection with the tender offer (whether or not legally enforceable); and the identity of such employment retainers or arrangement for compensation.

(b) Any applicable regulatory requirements which must be complied with or approved of in connection with the tender offer;

(c) The applicability of anti-trust laws; and

(d) The applicability of the margin requirements of Section 7 of the Act and the regulations promulgated thereunder;

(e) Any applicable legal proceedings relating to the tender or exchange offer, including the name and location of the court or other proceedings and the date instituted, the date instituted, the principal parties thereto and a brief summary of the proceedings;

INSTRUCTION

In connection with this sub-item, a copy of any document relating to a major development (such as pleadings, an answer, complaint, temporary restraining order, injunction, opinion, judgment or order) in a material pending legal proceeding should be promptly furnished to the Commission on a supplemental basis.

(f) Such additional material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

NOTE—Material to be filed as exhibits. Pursue a copy of:

(a) Tender offer material which is published, sent or given to securityholders by or on behalf concerning the tender offer;

(b) Any loan agreement referred to in Item 5 or paragraph (b) (4) of Proposed Rule 13e-4; and

(c) That the identity of any bank which is a party to a loan agreement need not be disclosed if the person filing the Schedule 13E-4 has requested, in compliance with the provisions of such loan agreement, that the identity of such bank not be made available to the public;

(d) Any document setting forth the terms of any contracts, arrangements, understandings or relationships referred to in Items 5 or (7a) of this schedule.

(e) Any written opinion prepared by legal counsel at the issuer’s request and communicated to the issuer pertaining to the use, directly or indirectly, in connection with the tender offer.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

(DATE)

(Signature)

(Name and title)

The original statement shall be signed by each person on whose behalf the statement is filed or on whose behalf the statement is signed on behalf of a person by his authorized representative, evidence of the representative’s authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

(Secs. 3(b), 10(b), 13(e), 14(e), 23(a), 48 Stat. 882, 894, 891, 895, 901, sec. 8, 49 Stat. 1379, sec. 5, 78 Stat. 569, 570, secs. 3, 2, 3-5, 64 Stat. 1497, secs. 3, 18, 89 Stat. 757, (15 U.S.C. 78c(b), 78j(b), 78m(e), 78n(e), 78w(a)).

The Commission hereby proposes for comment proposed Rule 13e-3 and Schedule 13E-4 pursuant to Sections 3(b), 10(b), 13(e), 14(e) and 23(a) of the Act.

As indicated above, interested persons are invited to submit written presentation of views, data and arguments concerning proposed Rule 13e-3 and Schedule 13E-4. As an aid to persons interested in submitting comments, particular items as to which the Commission has specifically requested the submission of comments are set forth below. Each item is described in a cursory manner for a complete discussion, interested persons should refer to the text of this release.

1. Whether tender offer considerations in the tender offer be extended to all holders of the class of subject securities which a conflict in those instances in which a tender offer cannot be made in certain jurisdictions;

2. Whether tender offer material should be disseminated to beneficial holders of subject securities;

3. Whether regulation of issuer tender offers should be accomplished by incorporating by reference existing statutory tender offer provisions and existing (and proposed) tender offer rules;

4. Whether there is a need for a recommendation statement in connection with issuer tender offers and, if so, what the content of such a statement should be;

5. Whether it is appropriate to limit the duration of an issuer tender offer;

6. Whether withdrawal rights (in addition to those contemplated by paragraph (b) (9) of Proposed Rule 13e-4) should be subject to both Proposed Rules 13e-3 and 13e-4 or subject only to the confidentiality of the tender offer;

7. Whether withdrawal rights should be subject to both Proposed Rules 13e-3 and 13e-4 or subject only to the confidentiality of the tender offer;

8. Whether an issuer and its round lot securityholders derive financial benefits from a tender offer made to odd lot securityholders, and, if so, whether such benefits are justified in light of the purposes of Proposed Rule 13e-4.

9. Whether it is appropriate to permit an odd lot issuer tender offer to be made to fewer than all owners of odd lots.

10. Whether it is appropriate to require that odd lot tender offers by issuers be extended to beneficial owners as well as record owners.

11. Whether Instruction 2 of Item 4 of Proposed Schedule 13E-4 ("Interest in Securities of the Issuer"), which is intended to facilitate efforts to preserve the confidentiality of the tender offer, would adequately achieve that purpose.

12. Whether the term of a tender offer which would be a "Rule 13e-3 transaction" should afford odd lot holders of subject securities different treatment than holders of one hundred shares or more of subject securities, in view of the requirement in Proposed Rule 13e-3(b), for transactions by issuers with a class of equity securities registered pursuant to Section 12 of the Act, that the transaction be fair.

13. Whether permitting acceptance of tendered securities on a formula basis from odd lot securityholders could satisfy the element of fairness of Proposed Rule 13e-3.

14. Whether, with respect to post-tender offer purchases, the approach of paragraph (b) (9) of Proposed Rule 13e-4, or one which requires that any post-tender offer purchases for 40 business days by the issuer be effected at the highest price paid during the offer, is appropriate for going private tender offers.

15. Whether an issuer tender offer which is a "Rule 13e-3 transaction" should be subject to both Proposed Rules 13e-3 and 13e-4 or subject only to the terms of Proposed Rule 13e-3, if adopted.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

December 7, 1977.
FOOTNOTES


2 See, e.g., Hearings Before the Senate Committee on Banking, Housing and Urban Affairs, 93d Cong., 2d Sess. (1974).

3 Securities Exchange Act Release No. 12276 (Apr. 8, 1976) 41 FR 18250. The proposed tender offer rules are still under active consideration by the Commission despite the expiration of the extended comment period. Proposed Release 13-e-4 differs from the Commission’s 1976 tender offer proposals, such differences reflect a recognition that the appropriate form of regulation for third party tender offers may differ from the regulation of issuer tender offers. See, e.g., id. at 20-21.


5 The bill’s approach of regulating tender offers under Section 14 of the Act and addressing securities acquisitions, as distinguished from tender offers, in Section 13 of the Act is based on the comments and proposals in the 1967 Senate Hearings. See, e.g., id. at 112 Cong. Rec. 10008, 10065 (1966).

6 “[I]t would seem that tender offers by issuers involve many of the same problems as tender offers by other persons, and it is not apparent why these are made an exception to (Section 13(e)). While the details of disclosure would differ from those applicable to non-issuer tender offers, the basic pattern of (Section 14(d))—advance filing, periodic disclosure of developments, a period of withdrawal, pro rata instead of first-come first served basis of selection, giving early notice to the securityholders of the class of subject securities. Commentators are requested to provide examples of instances in which tender or exchange offers have been prevented from being extended to residents of certain States. The Commission requests comments on the extent to which third parties should be provided adequate notice of the tender or exchange offer,” Letter dated March 24, 1967 to Senator Harrison A. Williams, Jr. from Milton Cohen, Assistant Secretary at 24 FR 12368 (1958).

7 “[I]t must be recognized that the disclosures which should be made by an issuer making a tender offer for its own shares are entirely different than those which should be made by a third party. For example, an issuer making such a tender offer probably should disclose substantially more information with respect to its own business and prospects than can reasonably be expected of a third party.” Supplemental Memorandum of the Securities and Exchange Commission with Respect to Certain Comments on S. 34 FR 31332 (1969). See also Section 13(e) (1) further states that: “such rules and regulations may require such issuer to provide holders of equity securities of such class with such information relating to the reasons for such purchase, the terms of such offer, and whether the shares to be purchased, the price to be paid for such securities, the method of purchase, and such additional information as the Commission deems necessary or appropriate in the public interest or for the protection of investors, or which the Commission deems to be material to a determination whether such security should be a subject of a tender offer.”

8 Section 13(e)(2) was amended in 1970 to give the Commission rulemaking authority to provide for the additional benefit mentioned in the preceding note for offers involving specified numbers of shares less than one hundred shares are not uncommon, e.g., a tender offer for all of the shares of a company beneficially owned by the issuer. The Commission specifically solicits comments on whether such a limited offer, discriminating among odd lot owners, is appropriate. Proposed Rule 13-e-4 offers are sometimes limited to record holders. Accordingly, persons beneficially owning in the aggregate less than one hundred shares, but holding such shares through brokers in “street” name or otherwise, have not been eligible to participate in such odd lot tender offers. Comment is specifically solicited on whether such offers should be required to be extended to beneficial, as well as record, owners.

9 Proposed Rule 14d-5, if adopted, would extend to ten business days the present seven day withdrawal period of Section 14(d)(5). See Release No. 34-12967. The seven day withdrawal period was designed to give shareholders who tender at the beginning of the offer period a better opportunity to reconsider their decision. See S. Rep. No. 550, 90th Cong., 1st Sess. at 10 (1967); H.R. Rep. No. 1191, 90th Cong., 2d Sess. at 11 (1968).

10 Proposed Rule 13e-4 utilizes the term “business days.” The forty business day period required for a determination of whether such a security should be a subject of a tender offer approximates the sixty day period in Section 14(d)(6). The sixty day withdrawal period in Section 14(d)(5) was intended to prevent the tender offer from being extended unreasonably indefinitively and essentially delaying to the point of being generally meaningless for securityholders who have tendered their shares. See also Section 14(d). The Commission’s Street Name Study assigned costs for service to the issuer and its remaining securityholders during the first ten days of an offer. See S. Rep. No. 550, 90th Cong., 1st Sess. at 3-4 (1967). During the 1967 hearings on the takeover bill, then Chairman Manuel F. Cohen commented that: “If I see no reason why those shareholders who have tendered during the initial period must be left in a state of uncertainty while the offeror endeavors to attract more shares.” Senate Hearings at 108. The Commission recognizes, however, that a tendering securityholder may nonetheless be deprived of access to his securities for an extended period of time and accordingly is inviting comment on the issue of extending that period for fifty shares or less. Address this situation. See infra at 33-34.

11 See paragraph (b) of Proposed Rule 14d-5, Release No. 34-12976. The Commission had originally recommended, and the Williams bill as originally drafted, would have provided, that the pro rata acceptance requirement apply only throughout the life of the tender offer. S. Rep. No. 550, 90th Cong., 1st Sess. at 4 (1967). In recommending that pro rata acceptance not be required for more than the first ten days of the offer, the New York Stock Exchange argued: "While we do not believe the full period for pro rata approach should be prohibited, we think it is desirable that the pro rata acceptance be required by law as the only permissible method."

12 Senate Hearings at 77. The Senate Subcommittee followed this suggestion and modified the original bill to require pro rata acceptance of all odd lots on the first day of the offer, and during the first ten days of an offer. See S. Rep. No. 550, 90th Cong., 1st Sess. at 4 (1967); see text infra at 33-34.

13 The exception from the requirement of pro rata acceptance for odd lots is intended to avoid the situation resulting from a reduction in the size of odd lot holdings rather than a reduction in the number of such holdings.
certain odd lot offers are made (e.g., at the
requirements to purchases by a bidder fol-
considering modifying Proposed Rule 14d-6
ficulties were presented by a proposal which
would permit an issuer to offer the same for-
ula for payment to all holders of less than one
hundred shares of its equity securities even
though this may result in different consid-
eration being paid to tendering secu-

In recognition of the manner in which
particular situations, of a proposed Schedule 14D-4 Rec-
the Commission, under certain circum-
sider the effects on competition that may

The special bid procedure is prem-
ised upon a determination that the regu-
al auction market for the subject security
cannot efficiently satisfy the order.

A special bid is generally less expensive
and quicker, and may require less of a pre-

Either alternative might be desired by
an issuer to assure tendering securityholders
that any adverse tax consequences which
may result from acceptance of less than a
specified number of their tendered securities
would be avoided.

In the manner discussed in the text.

88 A special bid is generally less expensive
than a traditional tender offer.

PROPOSED RULES

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senate hearings at 27-28.

see s. rep. No. 1125, 91st cong., 2d
sess. at 4-5 (1970). the exemption from
section 14(d) provided by paragraph (8) (3)
thereof for tender offers by an issuer has not
been extended to tender offers by control
persons or affiliates of an issuer (other than
a 100%-owned subsidiary of an issuer).

The first sentence of section 13(e) (2),
which was added to the act in 1970, has the
effect of bringing purchases by control per-
sons within the coverage of the section.
The second sentence, however, gives the Com-
misison rulemaking authority, including the
authority to adopt "exemptive rules and reg-
uations covering situations in which the
Commission deems it unnecessary or inap-
propriate that a purchase (by a control per-
son) should be deemed to be a purchase by
the issuer * * * *" see note 11 supra.

8392 (Aug. 30, 1968) 33 FR 14109. the Com-
mision further stated that "[a]ny such bid,
therefore, can be lawfully made only in ac-
cordance with the provisions of those sec-
tions, including paragraph (5), withdrawal
provisions, and paragraph (6), pro rata
provisions, of section 14(d), and the rules
and regulations thereunder." Id.

Pursuant to New York Stock Exchange
Rule 391 and American Stock Exchange
Rule 590, a purchaser, after receiving exchange
approval, must announce a special bid on
the tape, specifying the number of shares
desired and a fixed bid price. the specified
price cannot be less than the higher of the
average since an issuer tender offer may not
require disclosure co-extensive with that
requested to consider the breadth of the cov-
erage since an issuer tender offer may not
require disclosure co-extensive with that
required for third party offers.

In connection with third party offers, pro-
posed amendments to Rule 14d-4 under the
Act, if adopted, would require the filing with
the Commission, under certain circum-
cumstances, of a proposed Schedule 14D-4 Rec-
ommendation Statement. see release No.
34-10760.

In responding, commentors should con-
sider the effects on competition that may
result from different disclosure and sub-
sequent requirements for issuers and third
parties in a contested tender offer.
ENVIROMENTAL PROTECTION AGENCY

LEAD

Ambient Air Quality Standard
Availabillty of supporting information: A docket (Number OQAQS-77-1) containing information used by EPA in development of the proposed standard is available for public inspection at EPA's Public Information Reference Unit, Room 2202, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

PROPOSED RULES

SUMMARY: In response to a court order to adopt a national ambient air quality standard for lead, EPA proposes to set a national standard for airborne lead of 1.5 micrograms lead per cubic meter. By 1982, and maintained thereafter. The proposed standard for lead is based on EPA judgments about groups in the population that are at particular risk to lead exposure to lead from non-air sources, EPA has proposed regulations for lead phase-down in the total gasoline pool were promulgated in 1973 and, following litigation, modified and put into effect in 1978.

The Federal Reference Method for collecting and measuring lead and its compounds in the ambient air is described in Appendix G to this proposal. Regulations for development of State implementation plans for lead are proposed under 40 CFR Part 51 elsewhere in this Federal Register. The environmental and economic impacts of implementing this standard are described in an Environmental Impact Assessment available upon request from Mr. Joseph Padgett at the address shown above.

The documents "Air Quality Criteria for Lead (1978), the "Control Techniques for Lead Air Emissions" are being issued simultaneously with this proposal. Both documents are available upon request from Mr. Joseph Padgett at the address shown above.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Lead is emitted to the atmosphere by vehicles burning leaded fuel and by certain industries. Lead enters the human body principally through ingestion and inhalation. The availability of lead-free gasoline for catalyst-equipped cars and other vehicles certified for unleaded fuel and repposal of the regulations for lead phase-down in leaded gasoline. The regulations for lead phase-down in the total gasoline pool were promulgated in 1973 and, following litigation, modified and put into effect in 1978.

In 1975, the Natural Resources Defense Council (NRDC), and others brought suit against EPA to list lead under Section 108 of the Clean Air Act as a pollutant for which air quality criteria would be developed and a National Ambient Air Quality Standard be established under Section 109 of the Act. The Court ruled in favor of NRDC. EPA listed lead on February 17, 1978. There will be a period of public comment extending through Friday, at EPA's Public Information Reference Unit, Room 2202, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

In parallel with developing the proposed standards, EPA has used information on the availability of technological controls necessary to reduce air emissions of lead from industrial facilities. For primary copper smelters, primary and secondary lead smelters, gray and scrap smelters, and lead battery plants, attaining the standard may require control of fugitive lead emissions, i.e., those emissions escaping from process steps, other than emissions from vehicles and engines. Fugitive emissions are difficult to estimate, measure, or control, and it is also difficult to predict their impact on air quality near the facility. From the information available to the Agency, it does appear that non-ferrous smelters may have great difficulty in achieving lead air quality levels consistent with the proposed standard in areas immediately adjacent to the smelter complex. While the possible impact of the standard on these facilities is of concern to EPA, and will be the subject of continuing studies and analysis, these impacts have not entered into determination of the level of the standard.

LEGISLATIVE REQUIREMENTS FOR NATIONAL AMBIENT AIR QUALITY STANDARDS

Two sections of the Clean Air Act govern the development of a National Ambient Air Quality Standard. Section 108 instructs EPA to document the scientific basis for the standard.

Sec. 108(a)(2) "The Administrator shall issue air quality criteria for an air pollutant within 12 months after he has included such pollutant in a list under paragraph (1). Air quality criteria for an air pollutant shall accurately reflect the latest scientific knowledge as to its effects on public health or welfare which may be expected from its presence in the ambient air, in varying quantities. The criteria for an air pollutant, to the extent practicable, shall include information (A) those variables (including atmospheric conditions) which of themselves or in combination with other factors may have substantial and to control the level of lead in the air, and the parallel judgments and actions taken under other Federal programs. These other programs include EPA's own responsibilities to set standards for lead in drinking water and for the disposal of hazardous waste, the authorities of the Food and Drug Administration to control lead in food, and the regulations adopted by the Consumer Products Safety Commission to control lead in paint. EPA has raised through the Interagency Regulatory Liaison Group the need to coordinate the programs of the Food and Drug Administration, the Consumer Products Safety Commission, and the Occupational Safety and Health Administration. Where appropriate, EPA will continue to work with other Federal agencies in developing a general Federal approach to limiting other avenues of exposure to environmental lead.

In developing the proposed standards, EPA believes its proposal reflects the increasing concern from medical research about lead levels in children. The air standard proposed by EPA is based on a goal for total lead exposure lower than previously adopted by other Federal agencies. There is, however, continuing controversy over key areas of research underlying the standard. EPA would welcome information and views pertaining to EPA's approach in developing the standard and to the factors discussed in this notice. EPA also believes that the analyses and judgments that will lead to setting the air standard for lead will have strong implications for other regulations and programs related to lead at the Federal and other levels of government. In the six-month period between proposals and final promulgation, EPA will continue its examination of adverse effects on health, and the relative importance of airborne lead as a source of lead exposure. EPA believes its proposal reflects the increasing concern from medical research about prolonged low level exposure to lead by young children. The air standard proposed by EPA is based on goals for total lead exposure lower than previously adopted by other Federal agencies. There is, however, continuing controversy over key areas of research underlying the standard. EPA would welcome information and views pertaining to EPA's approach in developing the standard and to the factors discussed in this notice. EPA also believes that the analyses and judgments that will lead to setting the air standard for lead will have strong implications for other regulations and programs related to lead at the Federal and other levels of government. In the six-month period between proposals and final promulgation, EPA will continue its examination of adverse effects on health, and the relative importance of airborne lead as a source of lead exposure. EPA believes its proposal reflects the increasing concern from medical research about prolonged low level exposure to lead by young children.
Section 109 addresses the actual setting of the standard:

Sec. 109(b)(1) National primary ambient air quality standards, prescribed under subsection (a) shall be ambient air quality standards of the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are required to protect the public health. Such primary standards may be revised in the same manner as promulgated.

Any national secondary ambient air quality standard prescribed, under subsection (a) shall specify a level of air quality, the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public health. Such secondary standards may be revised in the same manner as promulgated.

EPA interprets these sections of the Act to mean that the level of the standard is to be determined from information covered in the Criteria Document pertaining to the health and welfare implications of lead air pollution. This is in contrast to other sections of the Act which allow EPA to consider costs of air pollution control and availability of technological controls in determining the level of a standard. Also, EPA should not attempt to place the standard at a level anticipated to represent the threshold for adverse effects, but should set a more stringent level which provides a margin of safety. EPA believes that the extent of margin of safety represents the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public health. Such secondary standards may be revised in the same manner as promulgated.

PROPOSED RULES

From the extensive review of scientific information presented in the Criteria Document, conclusions in several key areas have particular relevance for setting the lead standard.

1. Determining the critically sensitive group.

2. Determining the relationship between concentrations of lead in the air and possible adverse health effects experienced by the public.

3. Determining the mean population blood lead level which would be consistent with protection of the sensitive population.

4. Determining the relationship between lead exposure and resulting blood lead level.

5. Determining the allowable blood lead increment from air.

SUMMARY OF GENERAL FINDINGS FROM AIR QUALITY CRITERIA FOR LEAD

From the extensive review of scientific information presented in the Criteria Document, conclusions in several key areas have particular relevance for setting the lead standard.

1. There are multiple sources of lead exposure. In addition to air lead sources, the probability that the effects may occur, and uncertainties associated with scientific knowledge about the biologic effects of lead.

DEVELOPMENT OF AIR QUALITY CRITERIA

Following the listing of lead, EPA proceeded with development of the document, "Air Quality Criteria for Lead". In the process of developing the Criteria Document, EPA has provided a number of opportunities for external review and comment. Three drafts of the Criteria Document have been made available for external review and EPA has received 60 to 80 written comments on each draft. The Criteria Document was the subject of three meetings of the Subcommittee on Scientific Criteria for Environmental Lead of EPA's Science Advisory Board. Each of these meetings has been open to the public and a number of individuals have presented both critical review and new information for EPA's consideration.

Development of the Criteria Document indicated to EPA that there are a number of areas in which additional research could provide information useful to determining the level for the lead standard. It is also evident that scientific controversy exists about facts or interpretation of material included in the Criteria Document, including two areas critical to the setting of the standard: the health significance of abnormal biological effects associated with lead blood levels below traditional levels of concern, and the relative significance of lead air emissions as the direct or indirect source of lead exposure, compared to other sources of exposure.

However, the provisions of the Act requiring a deadline for proposal and promulgation of the standard, and the requirements for periodic future review of air quality criteria and standards, indicate that Congress intends for the Agency to proceed even where scientific knowledge is not complete or where there are an absence of full scientific consensus. EPA has, therefore, developed the proposed air standard on the basis of its best judgment as to what the Act requires, and what information the "Air Quality Criteria for Lead" provides. To arrive at the air standard, EPA has attempted to use numerical estimates of key factors. In several instances, factors which are not known precisely have a large effect on the level of the standard. EPA invites information, views and judgments both on its approach to setting a level for the standard and the numerical values used for key factors described in the following sections.

DETERMINING THE CRITICALLY SENSITIVE POPULATION

Certain subgroups within the general population differ in sensitivity to lead exposure. Protection of populations exhibiting the greatest sensitivity to lead exposure to a major consideration in determining the level of the lead standard. From information presented in the Criteria Document, there is a number of populations for which lead exposure poses a greater risk: young children, pregnant women and the fetus; the occupationally exposed; and individuals suffering from dietary deficiencies or exhibiting the genetic inability to produce certain blood enzymes. EPA believes that young children (ages 1-5 years) should be regarded as the foremost critically sensitive population.
for setting the lead standard. This is because hematologic and neurologic effects in children are shown to occur at lower thresholds than adults, and because children have a greater risk of exposure to non-food material containing lead, such as dust and soil, as the result of normal hand-to-mouth activity. The Criteria Document also states that children may be more susceptible to developing lead levels, concern exists that development of maternal complications at delivery. Because of lead level at which the effect is first detected.

The Criteria Document provides a ranking by blood lead threshold of the health effects observed in children.

**Summary of health effects in children**

<table>
<thead>
<tr>
<th>Blood lead threshold in micrograms of lead per deciliter</th>
<th>Effect</th>
<th>Population group</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 9.9</td>
<td>ALAD inhibition</td>
<td>Children and adults.</td>
</tr>
<tr>
<td>10 to 19.9</td>
<td>Anemia</td>
<td>Children and adults.</td>
</tr>
<tr>
<td>20 to 29.9</td>
<td>Increased urinary excretion of ALA</td>
<td>Children.</td>
</tr>
<tr>
<td>30 to 39.9</td>
<td>Anemia</td>
<td>Children.</td>
</tr>
<tr>
<td>40 to 49.9</td>
<td>Increased urinary excretion of ALA</td>
<td>Children.</td>
</tr>
<tr>
<td>50 to 69.9</td>
<td>Anemia</td>
<td>Children.</td>
</tr>
<tr>
<td>70 to 89.9</td>
<td>Protoporphyrin (CNS) dysfunction</td>
<td>Children.</td>
</tr>
<tr>
<td>90 to 99.9</td>
<td>Encephalopathic symptoms</td>
<td>Adults and children.</td>
</tr>
<tr>
<td>100 and over</td>
<td>Encephalopathic syndromes</td>
<td>Children.</td>
</tr>
</tbody>
</table>

**ALA INHIBITION**

Inhibition of the enzyme aminolevulinic acid dehydratase (ALAD) represents the lowest level effect of lead that has been detected. The decreased activity of this enzyme, while observable, is not sufficient at blood leads at and below 10 μg Pb/dl to interfere with the step in heme synthesis which it mediates. Because no accumulation of precursor occurs at this level of exposure, ALAD inhibition of this degree is not regarded as a physiological impairment of the system. This effect becomes more significant at higher lead concentrations (40 μg Pb/dl) which reduce the activity of ALAD sufficiently to cause build-up of the precursor (ALA) in the urine.

**ERYTHROCYTE PROTOPORPHYRIN ELEVATION**

Above 15–20 μg Pb/dl, the Criteria Document notes a correlation between blood lead levels in children and the elevation of protoporphyrin in red blood cells. Unlike ALAD inhibition at 10 μg Pb/dl, the accumulation of erythrocyte protoporphyrin (EP) indicates a functional impairment of the heme synthesizing pathway.

In regard to the implications for health of EP elevation, the Criteria Document provides the following description:

Accumulation of protoporphyrin in the erythrocytes is the result of decreased efficiency of iron insertion into protoporphyrin, the final step in heme synthesis which takes place inside the mitochondria. When this step is blocked by the effect of lead, large amounts of protoporphyrin without iron accumulate in the erythrocyte, occupying the available heme pockets in hemoglobin.

The effect of lead accumulation into protoporphyrin is not limited to the normoblast and/or to the hematopoietic system, but may be observed in any tissue. This leads to an increased risk of peripheral neuropathy due to lead which should be regarded as an adverse effect of lead exposure.

The remaining effects listed in the table present progressively greater health risks to susceptible individuals including anemia, learning deficits, and lead encephalopathy. EPA is proposing that lead-induced elevation in children of EP should be accepted as the pivotal adverse effect of lead. Accordingly, the air lead standard should be designed to prevent the occurrence of EP elevation in children. EPA bases its determination that EP elevation implies impairment. In other words, if a "reserve" activity of ferrochelatase exists, such a reserve has similarly been implicated in cases of peripheral neuropathy, the Criteria Document cites a tentative as well as the fact that lead is known to disrupt accumulation of substrate and therefore implies impairment. In other words, if a "reserve" activity of ferrochelatase exists, such a reserve has similarly been implicated in cases of peripheral neuropathy. EPA believes that this has been hampered by the lead effect to the point that the threshold, which should not be allowed to persist as an adverse health effect on the following points:

1. If EP elevation indicates an abnormal impairment of various cell functions, which should not be allowed to persist as a chronic condition.

2. The impairment of cellular function indicated by EP elevation extends to all body cells, and may have particular implications for the functioning of neural and hepatic tissues.

3. The air lead standard is intended to establish a level of airborne lead which can be regarded as consistent with protecting the health of all children from adverse health effects.

4. The Center for Disease Control has also used EP elevation as an indicator of undue lead exposure, and its guidelines published in 1975 are ord
ent to establishing an individual threshold for risk (30 \(\mu g\) Pb/dl) in populations of children exposed to high-dose lead sources such as lead-based paint rather than for establishing a safe mean population blood lead level with a margin of safety.  

5. The Act intends that the air standard be precautionary. Taking the lowest adverse effect levels is compatible with the scientific uncertainty about the health consequences of prolonged low level lead exposure, and with the downward trend in levels of lead in the blood regarded as adverse to health by the public health community.

As an alternative to using elevation of EP as the pivotal health effect, EPA has chosen a threshold for the correlation of EP with blood lead level, while of concern to public health, is not sufficiently adverse to health, and that the standard should be based on the more severe effects such as anemia, or EPA is proposing that the standard comments on whether what is known, or anticipated, about EP elevation or other subclinical effects has sufficient implications to warrant a role in determining the air lead standard.

DETERMINING A SAFE BLOOD LEAD LEVEL FOR PROTECTION OF THE SENSITIVE POPULATION

The third key area for judgment in the determination of the mean population blood lead level for children at which EP elevation does not occur. EPA believes that this threshold level should be based on the judgment that the mean population blood lead for children not exceed 15 \(\mu g\) Pb/dl. This is the lowest value given in the Criteria Document as a threshold for the correlation of EP with blood lead level, based on studies by Roels (1976) and Piomelli (1977). On the basis of present knowledge, EPA believes that a population mean of 15 \(\mu g\) Pb/dl can be regarded as an indicator of a safe mean population blood lead level for children below the Center for Disease Control threshold of 15 \(\mu g\) Pb/dl and 15 \(\mu g\) Pb/dl safeguard the public health. EPA believes that elevations in individual blood lead levels and corresponding adverse effects within a lifetime of exposure, EPA is proposing that no elevation of EP associated with lead exposure should be seen as free from risk to the health of the sensitive population.

In establishing the target mean blood lead level for the sensitive population, EPA has used the lowest threshold for EP rather than attempt to use statistical techniques discussed in the Criteria Document in order to take into account the extent of individual variation in blood lead levels for a given level of exposure. The Criteria Document points out that data from epidemiological studies show that for the individual values of individual blood lead values in a uniformly exposed population are normally distributed with a standard geometric deviation of 1.3 to 1.5. Using standard statistical techniques to calculate the mean population blood lead level which would place a given percentage of the population below the level of an effects threshold. For example, a mean population blood lead level of 15 \(\mu g\) Pb/dl would place 99.5% of a population of children below the Center for Disease Control guidelines of 30 \(\mu g\) Pb/dl. EPA believes that variable response within the sensitive population should be taken into consideration in setting the level of the standard, but recognizes a number of problems in using the log-normal distribution in the case of the lead standard.

(1) The log-normal distribution describes the variable response of individuals’ blood lead levels to air exposure. It can be expected that there is also a probability distribution for the elevation of EP among individuals with a given blood lead level. The parameters of this second probability distribution are not presented in the Criteria Document, but it is reasonable to expect that only a small percentage of those individuals exposed to a blood lead level will experience EP elevation beyond what could be expected from the normal scatter of EP values around blood lead levels just below the threshold.

The effect of using blood lead values as an intermediary between air lead exposure and EP values is to combine two probability distributions, one known and one unknown, between population blood levels and EP elevation.

(2) There are a number of sources of variability in blood lead levels other than individual differences of response within a population group. These include variability from possible non-uniform exposure to lead in the populations studied and from analytical and process techniques used in measuring blood lead.

For these reasons, EPA believes that use of a log-normal distribution overestimate the degree to which the population mean should be below the threshold blood lead level. This is particularly true in dealing with the threshold for EP elevation because the lower EP threshold may not in a single cycle constitute a serious physiological impairment. However, taken as a population average, underlying an environmental standard derived from the statistical threshold of this second probability distribution.

DETERMINING THE RELATIONSHIP BETWEEN AIR LEAD EXPOSURE AND RESULTING BLOOD LEAD LEVEL

On the basis of clinical and epidemiological studies evaluated, the Criteria Document concludes:

Evidence indicates that a positive relationship exists between blood and air lead levels, although the exact functional relationship has not yet been clarified. Available data indicate that in the range of air lead levels generally encountered by the population, the ratio of the increase in blood lead per unit of air lead is from 1 to 2. It appears that the ratio for children is at the upper end of the range and that ratios for males may be higher than those for females.

The range of ratios for children's blood lead response to a one \(\mu g\) increase in air lead cited in the Criteria Document is from 1.2 to 2.3. The lower ratio comes from studies at Kellogg, Idaho, where dust levels of lead were separately correlated with blood lead. In view of the tendency of children to experience higher ratios due to greater intake and absorption of air lead, EPA has selected a ratio of 1.2 in calculating the impact of air lead levels on blood lead levels in children.

DETERMINING THE ALLOWABLE BLOOD LEAD INCREASE FROM AIR

The five area of judgments made by EPA in developing the proposed standard for lead is related to an aspect of lead which has not characterized any pollutant previously addressed by EPA under section 109 of the Clean Air Act: That significant amounts of lead result from sources that are not subject to control by implementing an air quality standard.
Some studies reported in the Criteria Document clearly show that levels of lead in the blood derive from non-air sources. Airborne lead is a minor contributor to blood lead levels in areas with minimal air lead levels, and the level of an ambient air quality standard becomes in part a statement of how much of the air quality standard becomes in part a statement of what the air lead contribution can be. A study of children in Boston indicates that blood lead levels with lead levels in water supplies are higher in urban areas where lead from non-air sources is low and underprotective in areas where it is high. EPA does not believe, however, that it is given the latitude to set ambient air quality standards under Section 106. EPA has, therefore, undertaken to make a single judgment as to what contribution to population blood lead levels derives from non-air sources. This single numerical value represents, in fact, what EPA proposes should be taken as a goal in limiting lead exposures from non-air sources. The level for non-air contribution used in this proposal is EPA's best judgment as to the appropriate level based partly on what is known about non-air lead contribution from a limited number of studies and partly on the need for an appropriate goal for air pollution control, consistent with the Agency's responsibility to protect the public health. The specific derivation of the goal for non-air sources can vary widely, is probably non-in constant proportion to air lead contribution, and in some cases may alone exceed the target mean population blood lead level.

The implications of multiple sources of lead in an air standard are difficult to reconcile with the concept of a National Ambient Air Quality Standard. If the air were the only source of lead, it would be a reasonably straightforward matter to identify a safe level and to require that, regardless of what prevailing levels of air lead are today, the safe level be achieved. However, since non-air sources contribute lead as well, the level of an ambient air quality standard which will protect public health is affected by the contribution from lead sources other than the ambient air. If their contribution is far below the allowable level of blood lead, the air contribution can be permitted to be relatively high. However, if they alone contribute more than the allowable level of blood lead, it would be necessary to set a zero ambient air quality standard which will protect the general population from any lead sources. The level of the standard is very strongly influenced by judgments made regarding the size of non-air contributions to total lead exposure. EPA has encountered difficulties in attempting to estimate exposure from various lead sources in order to determine the contribution of such sources to blood lead levels. (1) Studies reviewed in the Criteria Document do not provide detailed or widespread information about relative contribution of various sources to young children. EPA has been able to make inferences from other empirical or theoretical studies, usually involving adults. (2) It can be expected that the contribution to blood lead levels from non-air sources can vary widely, is probably non-in constant proportion to air lead contribution, and in some cases may alone exceed the target mean population blood lead level. In spite of these difficulties, EPA has attempted to assess available information in order to estimate the general contribution to population blood lead levels from air and non-air sources. This has been done with evaluation of evidence from general epidemiological studies, studies showing decline of blood lead levels with decrease in air lead, studies of blood lead levels in areas with low air lead levels, and isotopic tracing studies of lead levels.

Studies reviewed by the Criteria Document show that mean blood lead levels for children are frequently above 15 µg Pb/dl. If one can assume that the mean population blood lead levels for children was from 16.5 µg Pb/dl to 46.4 µg Pb/dl, with most studies showing mean levels higher than 28 µg Pb/dl (Flint, 1972; Landrigan, 1972; Yankel and von Lindern, 1975). EPA believes that for most of these populations, the contribution to blood lead levels from non-air sources exceeds the desired target mean blood lead levels. In a number of studies, it is apparent that reduction in air lead levels results in a decline in children's blood lead levels. A study of blood lead levels in children in New York City showed that children's mean blood lead levels fell from 30.5 µg Pb/dl to 21.0 µg Pb/dl from 1970 to 1976, while during the same period air lead levels at a single monitoring site fell from 2.0 µg Pb/m3 to 0.2 µg Pb/m3 (Billick, 1977). Studies at Omaha, Nebraska (Angle, 1977) and Kellogg, Idaho (Yankel and von Lindern, 1977) also show a drop in mean blood lead levels with declines in air lead levels. However, since air lead levels decline there appears to be a rough limit to the drop in blood lead levels. EPA has also examined epidemiological studies in the Criteria Document where air lead exposure is low, and can be assumed to be a minor contributor to blood lead levels. These studies provide an indication of blood lead levels resulting from a situation where non-air sources of lead are predominant. Studies reporting blood lead levels in children exposed to moderate to low air lead levels were the only source of lead, EPA believes that it should assume some level of blood lead attributable to non-air sources in order to determine what the air lead contribution can be, and what the ambient air quality standard should be as a result. This calculation is complicated, however, by the fact that the non-air contribution to blood lead varies from time-to-time and place to place. As a result, the level selected as the basis for determining the allowable level of lead exposure to air quality standard becomes in part a policy choice reflecting how much of the lead pollution problem should be dealt with through control of air sources. Because of the factors just discussed, no National Ambient Air Quality Standard can be assured of being protective in all locations. Regardless of what the non-air contribution is assumed to be, the air standard will be overprotective in areas where lead from non-air sources is
the possibility that contributions from non-air sources exceed 15 μg Pb/dl.
2. Studies showing a sustained drop in air lead levels show a corresponding drop in blood lead levels, down to an apparent limiting level of about 14.4 μg Pb/dl. These studies show the rough range of the lowest blood lead levels that can be attributed to non-air sources.
3. Isotopic tracing studies show air contribution to blood lead to be 7–41 percent in one study and about 33 percent in another study.

In considering this evidence, EPA notes that if, from the isotopic studies, approximately two-thirds of blood lead is typically derived from non-air sources, a mean blood lead target of 15 μg Pb/dl would attribute 10 μg Pb/dl to non-air sources. On the other hand, the average blood lead level from studies EPA believes to represent the least amount of blood attributable to non-air sources is 12.7 μg Pb/dl. In the absence of more precise information, EPA is proposing that the lead standard be based on the assumption that in general, 12 μg Pb/dl of the blood lead level in children is derived from lead sources unaffected by the lead air quality standard. EPA is aware that actual blood lead levels will vary individually or as a population mean, may exceed this benchmark. However, if EPA were to use a larger estimate of non-air contribution to blood lead, the result would be an exceptionally stringent standard, which would not address the principle source of lead exposure. Conversely, EPA believes that it should not adopt an estimate of non-air contribution below the level shown in available studies to be the lowest mean blood lead level documented in the Criteria Document.

Because of the strong impact that adopting this goal for non-air sources has on the level of the standard, EPA welcomes information and judgments about the validity of the numerical value chosen for this factor, as well as views about how EPA could develop an air standard that takes into account other routes of exposure.

**Calculation of the Air Standard**

EPA has calculated the proposed standard based on the conclusions reached in the previous sections:

3. Effect threshold in sensitive population: 3 μg Pb/dl.
4. Assumed goal for contribution to blood lead from non-air sources: 12 μg Pb/dl.
5. Allowable contribution to blood lead from air sources: 15 μg Pb/dl–12 μg Pb/dl = 3 μg Pb/dl.
6. Air lead concentration consistent with blood lead contribution from air sources:

   \[ \frac{8 \, \text{μg Pb/dl} \times 1 \, \text{mg/m}^3 \text{air}}{1.5 \, \text{μg Pb/m}^3 \, \text{air}} = 5.33 \, \text{μg Pb/dl} \]

**Selection of the Averaging Period for the Standard**

To be protective of human health, the averaging period for the lead standard should be chosen such that variations in exposure which could result in adverse effects do not occur unless the standard is exceeded. The averaging period is the length of time over which measured concentrations are averaged to obtain an air quality level which is compared to the standard level to determine if a violation of the standard has occurred.

Moderate increases in air lead levels have been shown to produce increases in blood lead levels in adults after seven weeks of exposure (Griffin, 1975). Because of the slow response of blood lead levels to increases in air lead levels, it is not probable that short-term peaks in air lead levels will cause adverse effects.

Based on available information, EPA has concluded that the averaging period for the lead standard be a calendar month, based on the average of 24-hour measurements. This period is somewhat shorter than the time observed for the adjustment of blood lead levels in adults to changes in air lead concentration because of the greater risk of exposure of young children.

**Margin of Safety**

EPA believes that the recommended standard incorporates a sufficient margin to protect the public health and welfare from the adverse effects of lead exposure deriving from lead in the air. Safety considerations have entered into the development of the standard in several key areas:

1. The standard is based on protection of young children, a critically sensitive general subgroup within the population.
2. The standard is based on the lowest threshold for the first adverse effect occurring with increasing blood lead levels in children: elevation of protoporphyrin in red blood cells at a blood lead level of 15 μg Pb/dl.
3. In estimating the change in blood lead levels resulting from the change in air lead levels, EPA has selected a ratio at the protective end of the range provided in the Criteria Document.

**Impact of Lead Deposition on Blood Lead**

The significance of dust and soil lead as indirect routes of exposure has been of particular concern in the case of young children. Play habits and mouth behavior between the ages of one and five have led to the conclusion that young children are especially at risk for childhood ingestion and inhalation of the lead available in dust and soil.

Studies reviewed in the Criteria Document indicate a correlation between soil and dust levels and children's blood lead levels in high exposure environments (Yankel and von Lindern, 1977; Bartloup, 1974; Galke, in press). The lead threshold for concern has been reported as 1,000 ppm in soil (Yankel and von Lindern, 1977) and 500 and 1,000 ppm soil the Document concludes that blood lead levels begin to increase. A two-fold increase in soil concentration in this range is predicted to result in a 3–6 percent rise in blood lead levels. Below 500 ppm soil, no correlation has been observed with blood lead levels.

The normal background for lead in soil is cited in the Criteria Document as 15 ppm. Due to human activities, the average levels in most areas of the U.S. are considerably higher. Soil studies conducted by EPA's Office of Pesticides Programs from 1974–1976 in 17 urban areas reported only 3 cities with arithmetic mean concentrations in excess of 200 ppm, with the highest value 537 ppm. Concentrations in the soils surrounding large point sources of lead emissions, or heavily-travelled roads, on the other hand, may reach several thousand ppm.

Because of the many factors involved, EPA is unable to predict the relationship between air lead levels, dustfall rates, and resulting soil accumulation. Complicating factors include: particle size distribution, rainout, other meteorological factors, features affecting deposition, and removal mechanisms.

EPA believes, however, that significant impacts on blood lead of soil and dust lead are not demonstrated by available data. High soil concentration (in excess of 1,000 ppm) around large point sources and in major urban areas which also experience high air lead levels. Evidence suggests that soil lead levels and air lead levels in the range of the proposed standard are well below the threshold for blood lead impact (Johnson, Tillery, 1975; Johansson, 1972; EPA, 1975 Air Quality Data and Soil Levels).

**Welfare Effects**

Available evidence cited in the Criteria Document indicates that animals do not appear to be more susceptible to adverse effects from lead than man nor do adverse effects in animals occur at lower levels of exposure than comparable effects in humans.

There is some evidence that atmospheric sources of lead may be injurious to plants. Lead is absorbed but not accumulated to any great extent by plants from soil. Lead is either unavailable to plants or is fixed in the roots and only small amounts are transported to the above ground portions. Lead may be deposited in the leaves of plants and present a hazard to grazing animals. Although some plants may be susceptible to lead in the natural environment, it is generally in a form that is largely non-toxic to them.

There is no evidence to indicate that ambient levels of lead result in significant damage to man-made materials. Effects of lead on visibility and climate are minimal.

Based on such data, EPA concludes that significant welfare effects associated with exposure to lead which would necessitate a secondary standard more restrictive than the primary standard have not been established. Therefore, the primary ambient air quality standard should protect against known and anti-
ECONOMIC IMPACT ASSESSMENT

The Agency conducted a general analysis of the economic impact that might result from the implementation of lead emission control measures. This analysis pointed out that the categories of sources likely to be affected by control of lead emissions are primary lead and copper smelters, secondary lead smelters, gray iron foundries, gasoline lead additive manufacturers, and lead storage battery manufacturers. This analysis further indicates that primary and secondary lead smelters and copper smelters may be severely strained both technically and economically in achieving emission reductions that may be required in implementing the proposed air quality standard.

There are, however, uncertainties associated with evaluating the impact of attaining the standard. For smelters, foundries and battery plants, attaining the standard may require control of fugitive lead emissions, i.e., those emissions escaping from process steps, other than by dust from smoke stacks. Fugitive emissions are difficult to estimate, measure, or control and it is also difficult to predict how quickly the air quality will return to the facility. From the information available to the Agency, it does appear that non-ferrous smelters may have great difficulty in achieving lead air quality levels consistent with the proposed standard in areas immediately adjacent to the smelter complex. While the possible impact of the standard on these facilities is of concern to EPA, and will be the subject of continuing studies and analysis, these impacts have not entered into determination of the level of the standard.

OTHER EPA REGULATIONS

In 1975, EPA promulgated the national interim primary drinking water regulation for lead. The standard was aimed at protecting children from undue lead exposure to 0.05 milligrams per liter (mg/l) which was considered as low a level as practicable. In 1977, the National Academy of Sciences evaluated the interim drinking water standards and concluded that a no-observed-adverse health effect for lead cannot be set with assurance at any value greater than 0.025 mg/l. The Office of Water Supply is currently reviewing the need to revise the interim drinking water standard for lead.

Based on its toxicity, EPA included lead in its 1977 list of priority pollutants for which effluent guidelines will be developed by early 1979. Effluent guidelines for non-ferrous smelters, the major stationary source emitters of airborne lead, are being developed based on achievement of best available technology.

EPA's Office of Pesticide Programs has promulgated regulations based on the most likely to require the addition of coloring agents to the pesticide lead arsenate and specify disposal procedures for lead pesticides. Use of lead in pesticides is a small and decreasing proportion of total lead consumption in the U.S.

The Resource Conservation and Recovery Act of 1976 provides EPA is to establish standards on how to treat, dispose, or store hazardous wastes, provides a means for specifying how used crankcase oil and other waste streams containing lead should be recycled or safely disposed of. At the present time, no regulatory actions related to wastes containing lead have been proposed.

EPA has regulations for reducing the lead content in gasoline to 0.5 grams/gallon by October 1, 1979, and regulations providing for lead-free gasoline required for cars equipped with catalytic converters and other vehicles certified for use of unleaded fuel. The former regulations are based on reducing exposure of the airborne lead to protect public health. Other EPA actions which result in the reduction of airborne lead levels include ambient air quality standards for particulate matter and sulfur dioxide and new source performance standards limiting emissions of such pollutants. Existing and new sources of particulate matter emissions generally use control techniques which reduce lead emissions as one component of particulate matter.

OTHER FEDERAL AGENCY REGULATIONS AND POSITIONS ON LEAD

The Occupational Safety and Health Administration proposed regulations in 1975 to limit occupational exposure to lead to 100 micrograms Pb/m³, 8-hour time weighted average. The exposure limit was based on protecting against effects, clinical or subclinical, and the mild symptoms which may occur below 80 micrograms Pb/dl, providing an adequate margin of safety. The level of 100 micrograms Pb/m³ is anticipated to limit blood lead levels in workers to a mean 40 micrograms Pb/dl and a maximum of 60 micrograms Pb/dl. OSHA is presently reviewing the limits of control equipment to determine the safety and health effects in preparation for promulgation of the workplace standard for lead.

The Department of Housing and Urban Development (HUD) has requirements for reducing human exposure to lead through the prevention of lead poisoning from ingestion of paint from buildings, especially residential dwellings. Their activities include a goal of use of lead-based paints on structures constructed or rehabilitated through Federal funding and on all HUD-associated housing, and publication of HU associate housing recommendations. HUD's housing construction prior to 1950 that such dwellings may contain lead-based paint; and (2) research activities to develop improved methods of detection and elimination of lead-based paint hazards.

The Consumer Product Safety Commission (CPSC) promulgated regulations in September 1977 which ban (1) paint and other surface coating materials containing lead; (2) toys and other articles intended for use by children bearing paint or other similar surface coating material containing more than 0.06 percent lead; and (3) furniture coated with materials containing more than 0.05 percent lead. These regulations are being developed based on the consideration that it is in the public interest to reduce the risk of lead poisoning to young children from ingestion of paint and other similar surface-coating materials.

The Food and Drug Administration adopted in 1974 a proposed tolerance for lead of 0.3 ppm in evaporated milk and evaporated skim milk. This tolerance is based on maintaining children's blood lead levels below 0.2 micrograms Pb/dl except where the elevated EP level is caused by iron deficiency. This guideline is presently accepted by the scientific community but because of more recent data is being reevaluated.

STATE AIR QUALITY STANDARDS

Four states currently have lead air quality standards—California, Pennsylvania, Montana, and Oregon. California has the lowest standard of 1.5 micrograms Pb/m³, 30-day average, which is based on limiting the portion of blood lead that is air delivered to 5 percent if individual values are held to 30 micrograms Pb/dl or less. California concludes that this standard is consistent with restricting mean blood lead levels to less than 15 micrograms Pb/dl. Pennsylvania based their standard of 5.0 micrograms Pb/m³, 30-day average on the health effects of absorbed lead and concluded that 50 micrograms/day of lead can be safely absorbed from the air. Assuming a daily respiration volume of 20 m³ and a 50 micrograms Pb/m³ concentration for the lead, 5 micrograms Pb/dl is allowed in the air. Montana's standard of 5.0 micrograms Pb/m³, 30-day average, was adopted as a goal based on Pennsylvania's experience. Oregon has a standard of 0.3 micrograms Pb/m³, 30-day average, which was based primarily on health effects data with some consideration of economic implications.

THE FEDERAL REFERENCE METHOD

The Federal Reference Method for Leda describes the appropriate techniques for determining the concentration of lead and its compounds measured on environmental lead in ambient air. The method is based on measuring the lead content of suspended particulate matter on glass fiber filters using high volume samplers. The lead is extracted from the particulate matter using nitric acid with heat or ultrasonic energy; finally, the lead content is measured by atomic absorption spectrometry.

The method has received single laboratory certification on samples or airborne particulates collected at a number of locations. In addition, four other
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Laboratories have conducted two abbreviated collaborative tests using particulate samples. All available precision and accuracy information from these tests is included in the proposed method. Additional standard procedures may be completed between this date and promulgation.

EPA does not anticipate changing the sampling method or analytical principle involved but may amend the final Federal Reference Method for Lead in any or all of the following ways:

1. Removal of some inherent judgment processes left to the individual analyst.

2. Inclusion of a third extraction procedure which uses aqueous regia. This permits the analyst to extract more metals than just lead quantitatively thereby permitting him to analyze the same extract for more than one metal.

3. Although the atomic absorption principle was selected as the method of analysis, other analytical principles appear to be equally applicable and are currently being evaluated. These methods are flameless atomic absorption, optical emission spectrometry, and anodic stripping voltammetry. These analytical principles may be included in the final method but probably will be handled via the "equivalent method" route.

PUBLIC PARTICIPATION

All interested persons are invited to comment on all aspects of the proposed standard and the Federal Reference Method. In particular, data, views and calculations used by EPA in preparing the proposed method but probably will be handled via the "equivalent method" route.

REFERENCES


The Agency proposes to amend 40 CFR Part 50 by adding the following:

§ 50.12 National primary and secondary ambient air quality standards for lead.

1. Principle and Applicability

1.1 Ambient air suspended particulate matter is lead in air. The sampler is operated 24 hours using a high volume air sampler.

1.2 Lead in the particulate matter is measured using the ammonium pyrrolidinecarbodithioate-HNO₃-Tl⁺ extraction technique. Lead is determined using an air-acetylene flame. The 283.3 or 217.0 nm lead absorption line, and the optimum instrumental conditions recommended by W. M. Gilbody and others. EPA.

2. Range, Sensitivity and Lower Detectable Limit

The values given below are typical of the methods capabilities. Absolute values will vary depending on individual situations depending on the type of instrument used, the lead line, and operating conditions.

- 2.1 Range. The typical range of the method is from 7.5 µg Pb/m³ assuming an upper linear range of analysis of 15 µg/ml and an air volume of 2400 m³.

- 2.2 Analytical sensitivity. Typical sensitivities for a 1% change in absorption (0.0044 absorbance units) are 0.2 and 0.5 ppm for the 217.0 and 283.3 nm lines, respectively.

- 2.3 Lower Detectable Limit (LDL). A typical LDL is 0.005 µg Pb/m³. This LDL is for the 217.0 nm line. The LDL for the 283.3 nm line will be somewhat higher. The above value was calculated by doubling the between laboratory instrumental standard deviation obtained for the lowest measurable lead concentration in a collaborative test of the method. An air volume of 2400 m³ was assumed.

3. Interferences

Two types of interferences are possible: chemical, and light scattering.

3.1 Chemical interferences. The absence of chemical interferences far outweigh those reporting their presence, therefore, no correction for chemical interferences is given here. If the analyst suspects that the sample matrix is causing a chemical interference, the interference can be verified or corrected for by carrying out the analysis using the method of standard additions.

3.2 Light Scattering. Non-atomic absorption or light scattering produced by high concentrations of dissolved solids in the sample, can produce a significant interference, especially at lead concentrations of 1 mg Pb/strip.

Light scattering interferences can, however, be corrected for instrumentally. Since the dissolved solids can vary depending on the type of equipment used and correction may be necessary, especially when using the 217.0 nm line. Dual beam instruments with a stabilization source give the most accurate correction. A less accurate correction can be obtained by using a non-absorbing lead line then subtracting the the correction factor. Determination on use of these correction techniques can be obtained from instrument manufacturers manuals.

If instrument correction is not feasible, the interference can be eliminated by use of the ammonium pyrrolidinecarbodiimide-methylisobutyl ketone, chelation-organic extraction technique of sample preparation.

4. Precision and Bias

1. The high-volume sampling procedure used to collect ambient air particulate matter includes a between laboratory relative standard deviation of 3.7% over the range 80 to 135 µg/m³. The following equations give the precision of lead measurements made on 0.4 m³ using impingers cut from glass filters using the hot extraction procedure:

\[
E = 1.73 \times 10^{-3} \frac{X}{Y} - 2.01 \times 10^{-3} \frac{Y}{X}
\]

where:

- \(E\) = within laboratory standard deviation, µg Pb/strip
- \(X\) = between laboratory standard deviation, µg Pb/strip
- \(Y\) = lead concentration, µg Pb/strip


DOUGLAS COSTLE, Administrator.

The Agency proposes to amend 40 CFR Part 50 by adding the following:

PROPOSED RULES

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5. Analysis.
5.2 Atomic Absorption Spectrophotometer. Equipped with lead hollow cathode or electrodeless discharge lamp.
5.2.1 Beakers. 30 and 150 ml, graduated. Pyrex.
5.2.2 Volumetric flasks. 100-ml.
5.2.3 Pipettes. To deliver 50, 30, 15, 8, 4.2, or 0.2 ml.
5.2.4 Cleaning. All glassware should be scrupulously cleaned. The following procedure is suggested. Wash with laboratory detergent, rinse four times in 20% (w/w) HNO₃, rinse 3 times with distilled-deionized water, and dry in a dust free manner.
5.2.5 Hot plate.
5.2.6 Ultrasonic cleaning. Baths of 450 watts or higher "cleaning power", i.e., actual ultrasonic power output to the bath have been found satisfactory.
5.2.7. Glass-fiber filter. See Figure 1 for dimensions.
5.2.8 Polyethylene bottles. For storage of samples, the laboratory taking care to minimize contamination and loss of sample.

6. Reagents.
6.1 Sampling.
6.1.1 Glass fiber filters. The specifications given below are intended to aid the user in obtaining high quality filters with reproducible properties. Those specifications have been met by EPA contractors.
6.1.1.1 Lead content. The absolute lead content of filters is not critical, but low values are, of course, desirable. EPA typically obtains filters with a lead content of <75 ug/filer.

7. Procedure.
7.1 Sampling. Collect samples for 24 hours using the procedure described in reference 10 with glass-fiber filters meeting the specifications in 6.1.1. Transport collected samples to the laboratory taking care to minimize contamination and loss of sample.
7.2 Sample Preparation.
7.2.1 Hot Extraction Procedure.
7.2.1.1 Cut a 3/4" X 8" strip from each filter any where in the filter. Analyze all strips, separately, according to the directions in Sections 7 and 8.
7.2.1.2 Calculate the total lead in each filter as

\[ F_b = \frac{mg Pb/ml \times 100 ml}{12 strips \times \text{filter}} \]

where:

- \( F_b \) = Amount of lead per 75 ug of filter, micrograms.

7.2.1.3 Calculate the mean, \( F_b \), of the values and the relative standard deviation (standard deviation/mean X 100). If the relative standard deviation is high enough so that, in the analyst's opinion, subtraction of \( F_b \) (Section 10.3), may result in a significant error in the \( \mu g \) Pb/m², the batch should be rejected.

7.2.1.4 For acceptable batches, use the value of \( F_b \) to correct all lead analyses (Section 10.3) of particulate matter collected using that batch of filters. If the analyses are below the LOD (Section 2.5) no correction is necessary.

7.2.2 Concentrated (15.6 M) HNO₃. ACS reagent grade HNO₃ and commercially available redistilled HNO₃ has been found to have sufficient long term stability.
7.2.3 Distilled-deionized water. (D.I. water).
7.2.4 0.45 M HNO₃. Add 29 ml of concentrated HNO₃ to a volumetric flask. Shake well, cool, and dilute to volume with D.I. water. CAUTION: Nitric Acid Fumes Are Toxic. Prepare in a well ventilated fume hood.
7.2.5 0.45 M HNO₃. Add 29 ml of concentrated HNO₃ to a volumetric flask. Shake well, cool, and dilute to volume with D.I. water.
7.2.6 Lead Nitrate, Pb(NO₃)₂, ACS reagent grade, purity 99.0 percent. Heat for 4 hours at 120°C and cool in a desiccator.
7.2.7 Calibration standard.
7.2.7.1 Master standard. 1000 mg Pb/ml. Dissolve 1.598 g of Pb(NO₃)₂ in 6.25 liters of HNO₃. Store in a polyethylene bottle. Commercially available certified lead standard solutions may also be used.

8. Analysis.
8.1 Set the wavelength of the monochromator at 238.3 or 217.0 nm. Set or align other instrumental operating conditions as recommended by the manufacturer.
8.2 The sample can be analyzed directly from the volumetric flask, or an appropriate amount of sample decanted into a sample analysis tube. In either case, care should be taken not to disturb the settled solids.
8.3 Aspirate samples, calibration standards and blanks (Section 9.2) into the flame and record the equilibrium absorbance.
8.4 Determine the lead concentration in mg Pb/ml, from the calibration curve.
8.5 Samples that exceed the linear calibration range should be diluted with HNO₃, reanalyzed, and reaveraged as the calibration standards and reassayed.

9.1 Working standard, 20 mg Pb/ml. Prepare by diluting 2.0 ml of Master standard (63.1) to 100 ml with 0.45 M HNO₃. Prepare daily.
9.2 Calibration standards. Prepare daily by diluting the working standard with 0.45 M HNO₃ as indicated below. Other concentrations may be used.
Volume of 30 pg/ml final volume, mg

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<tr>
<th>Working standard,</th>
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<th>Concentration in milligrams of Pb per milliliter</th>
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9.3 Preparation of calibration curve. Since the working range of analysis will vary depending on which lead line is used and the type of instrument, no one set of instructions for preparation of a calibration curve can be given. Select at least six standards (plus the reagent blank) to cover the linear absorption range indicated by the instrument manufacturer. Measure the absorbance of the blank and standards as in Section 8.9. Repeat until good agreement is obtained between replicates. Plot absorbance (y-axis) versus concentration in pg Pb/ml (x-axis). Draw (or compute) a straight line through the linear portion of the curve. Do not force the calibration curve through zero.

To determine stability of the calibration curve, re-measure—alternately—one of the following calibration standards for every 10th sample analyzed: concentration g l

10. Calculated value. Calculate the measured air volume as

\[ V_m = \frac{Q_1 - Q_T}{2} \times T \]

where:

- \( V_m \) = Measured volume from 10.1.
- \( Q_1 \) = Initial air flow rate, m³/min.
- \( Q_T \) = Final air flow rate, m³/min.
- \( T \) = Sampling Time, min.

The flow rates \( Q_1 \) and \( Q_T \) should be corrected to the temperature and pressure conditions existing at the time of orifice calibration as directed in addendum B of reference 10, before calculation of \( V_m \).

10.2 Air volume at STP. The measured air volume is corrected to reference conditions of 760 mm Hg and 25°C as follows. The units are standard cubic meters, sm³.

\[ V_{STP} = V_m \times \frac{P_1 \times T_1}{P_2 \times T_2} \]

where:

- \( V_{STP} \) = Sample volume, sm³, at 760 mm Hg and 25°C.
- \( V_m \) = Measured volume from 10.1.
- \( P_1 \) = Atmospheric pressure at time of orifice calibration, mm Hg.
- \( P_2 \) = Atmospheric pressure at time of calibration, K.
- \( P_3 \) = 760 mm Hg.
- \( T_1 \) = Atmospheric temperature at time of orifice calibration, °K.
- \( T_2 \) = 296 °K.

10.3 Lead Concentration. Calculate lead concentration in the air sample.

\[ C = \frac{V_{STP}}{200} \times (12 \text{ strips/ filter}) - P_b \]

where:

- \( C \) = Concentration, as Pb/strip.
- \( V_{STP} \) = Volume of sample from 10.2.
- \( P_b \) = Lead concentration of blank filter, pg Pb/strip, from Section 6.1.2.3.
- 12 strips/filter = Usable filter area, 7" x 9".
- 200 = Total sample volume.
- 100 ml/strip = pg Pb/ml.

11. Quality Control. 1/4" x 8" glass fiber strips containing 80 to 2,000 pg Pb/strip (as lead salts) and blank strips with zero Pb content should be used to determine if the method—as being used—has any bias. Quality control charts should be established to monitor differences between measured and true values. The frequency of such checks will depend on the local quality control program.

To minimize the possibility of generating unreliable data, the user should follow procedures established for assuring the quality of air pollution data, and take part in EPA's semi-annual audit program for lead analyses.

12. Trouble Shooting.

1. During extraction of lead by the hot extraction procedure, it is important to keep the sample covered so that corrosion products—from fume hood surfaces which may contain lead—are not deposited in the extract.

2. The sample acid concentration of 0.45 M should minimize corrosion of the nebulizer. However, different nebulizers may require lower acid concentrations. Lower concentrations can be used provided samples and standards have the same acid concentration.

3. Ashing of particulate samples has been found, by EPA and contractor laboratories, to be unnecessary in lead analyses by Atomic Absorption. Therefore, this step was omitted from the method.

4. Filtration of extracted samples, to remove particulate matter, was specifically excluded from sample preparation, because some analysts have observed losses of lead due to filtration.

References.


15. To be published. EPA, QAB, EMSL, RTP, N.C. 27711
16. To be published. EPA, QAB, EMSL, RTP, N.C. 27711

Figure 1
PROPOSED RULES

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Agency.

ACTION: Proposed rulemaking.

plans are required under section 110 of national ambient air quality standard. The lead plan may incorporate those portions of existing plans by reference.

The implementation plans, and new source review, may be applicable to the implementation of the lead standard. The lead plan may incorporate those portions of existing plans by reference.

1.3 EXTENSIONS

Under section 110 of the Clean Air Act, the EPA Administrator may extend up to two years the three-year period for attainment of a primary standard.

The two-year extension to attain primary standards can be granted only upon application from the Governor of a State. Detailed requirements for the extension appear in section 110 of the act and Subpart C (Extensions) of 40 CFR 51.

2. EXISTING REGULATORY REQUIREMENTS AND NEED FOR REVISION

Regulations for the preparation, adoption, and submission of State implementation plans under section 110 of the

SUMMARY: The regulations proposed were designed. The proposed amendments to 40 CFR Part 51 address the following topics:

Definitions of point sources and control strategy.

Control strategy requirements. Air quality surveillance.

This preamble also discusses other issues concerning the development of lead implementation plans, including reporting requirements, emergency episode plans, and new source review.

DATES: Comments must be received on or before: February 17, 1978. Comments submitted in triplicate will facilitate internal distribution and public availability.

ADDRESSES: Persons may submit written comments on this proposal to: U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Control Programs Development Division (MD 15), Research Triangle Park, N.C. 27711. Attention: Mr. Joseph Sableski.

EPA will make all comments received on or before February 17, 1978, available for public inspection during normal business hours at: EPA Public Information Reference Unit, 461-M Street SW., Room 2223, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. John Silvasi, U.S. Environmental Protection Agency, Office of Air Quali-
Clean Air Act, as amended, were published November 28, 1971 (36 FR 23669), codified as 40 CFR Part 51 and have been modified from time to time since then. The regulations represent an exercise of the agency’s authority under section 301 of the act to prescribe regulations as necessary to carry out the functions assigned to EPA under the act. The regulations incorporated the basic requirements outlined in section 110 of the act, discussed above in section 1. When EPA first published these regulations, there were only six criteria pollutants. Particulate matter, sulfur oxides, carbon monoxide, hydrocarbons, photochemical oxidants, and nitrogen dioxide.

Elsewhere in this Federal Register, EPA is proposing a national ambient air quality standard for lead. EPA proposes to revise 40 CFR 51 to prescribe the minimum requirements that plans must meet for EPA approval. Portions of 40 CFR 51 that are not revised are still applicable to the lead plans as appropriate.

In addition, EPA will eventually promulgate requirements that account for the Clean Air Act Amendments of 1977. The regulations that may affect lead implementation plans will cover the following topics:

- Transportation-related provisions.
- Accounting for stack heights.
-Permit requirements.
- Indirect source review.
- Indirect source limitation.
- Consultation with governmental entities at the local and Federal level.
- Permit fees.
- Composition of State air pollution boards.
- Provisions for public notification of danger of air pollution.
- Protection of visibility in certain areas.
- Energy or economic emergency authority.

3. DISCUSSION OF PROPOSED REVISIONS

Portions of this section and the proposed rulemaking refer to a document entitled “Supplementary Guidelines for Lead Implementation Plans,” which is now in draft form. Information on availability of that document appears in § 4.9 of this preamble, below.

3.1 DEFINITIONS

3.1.1 Definition of Lead Point Sources. A point source is a facility that emits a significant quantity of air pollutant emissions. EPA is proposing that a point source of lead be defined as a source that emits five tons per year of lead or greater, without regard to the area in which it is located. Factors influencing the proposed point source definition include the air quality impact of such sources, and the number of sources that would be affected. A discussion of the determination of this definition appears in EPA’s draft “Supplementary Guidelines for Lead Implementation Plans.”

3.1.2 Definition of Control Strategy. The proposal below would amend the definition of “control strategy” (§ 51.1(n)) to include regulation of fuels and fuel additives in the list of measures that could be considered control strategies. Section 211(c)(3)(A) of the Clean Air Act authorizes States to regulate or prohibit the use of a fuel or fuel additive for motor vehicles through the State implementation plan. EPA can approve a State plan that contains such a regulation only if EPA “finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the prevailing petroleum form or composition of the fuel is not capable of supplying.”

3.2 PROPOSED RULES

PROPOSED RULES

Requirements for Air Quality Measurement Analyses and Plans. Review of new and modified stationary sources of lead under 40 CFR 51.18 should be adequate to ensure maintenance of the national standard for lead in most areas. The regulations (40 CFR Part 51, Subpart D) requiring a detailed emissions projection analysis for the other criteria pollutants in selected areas were designed to require evaluation of the air quality impact of the growth of area sources that are not covered by the new source review provisions under § 51.18. The only area sources for lead are nonpoint process sources (those less than five tons per year), stationary fuel combustion sources, and mobile sources. Non-point process sources will not likely jeopardize the maintenance of the lead standard. Using lead consumption as an indicator of production—and hence source emission activity—between 1971 and 1975 there was a net decrease in lead consumption in all lead products industries. Most categories had decreases in consumption. The only categories with increases were weights and ballast production (12.8 percent) and storage battery components manufacturing (2.8 percent). The stationary fuel combustion sources emit only minor quantities of lead.
Mobile sources, particularly automobiles, emit varying quantities of lead as a category, but EPA regulations for reduction of lead in gasoline have not yet been fully implemented. After the maximum reduction of lead in gasoline, growth in mobile sources will not jeopardize the proposed lead standard.

Section 51.12(h) requires States to provide for a system for acquiring information on growth in which States must assess all areas at least every five years to determine if the State needs to revise the plan for any areas. The information-gathering mechanism and the periodic reassessments must uncover growth in sources too small to be reviewed under § 51.18.

The proposed regulations would allow EPA to require an analysis period beyond the statutory attainment date in those few areas where growth might jeopardize the national lead standard.

3.42. Lead Emission Inventory. EPA will require the States in developing their initial lead emissions inventory by generating inventories based on data in NEDS and HATREMS described above under the reporting requirements. States will have to determine the degree of reliability of this data, however, and obtain additional data as warranted. The EPA-generated inventory can be supplemented by the State through the calculation of emissions using a State particulate matter inventory and the emission factors in “Control Techniques for Lead Air Emissions.” Where the State desires more accurate emission data from a particular source category, the State would need to conduct an analysis of their emissions using similar techniques.

In projecting emissions to 1982—the year by which the lead standard must be attained (unless extended)—States will have to account for the effect of the federal programs on the mobile-source lead reduction in gasoline. EPA’s “Supplementary Guidelines for Lead Implementation Plans” provide a technique for projecting mobile source lead emissions. Detailed procedures for projecting emissions for other source categories appears in EPA’s “Guidelines for Air Quality Maintenance Planning and Analysis.”

3.4.3 Lead Air Quality Analysis and Control Strategy Development. The regulations proposed below are based on the following three-part approach:

First, the State would determine whether EPA’s lead-in-gasoline limitation is sufficient to provide for attainment of the standard in areas in which high lead air concentrations have been measured, and that are affected primarily by mobile source lead emissions. This analysis will be restricted to those urbanized areas where lead air concentrations exceeded 4.0 µg/m³, monthly mean, measured since January 1, 1974. EPA derived this criterion from an analysis of data collected through federal programs on reducing lead emissions: the program for the reduction of lead in gasoline under 40 CFR 80.20, the requirements (40 CFR 80.21 and 80.22) that prohibit the use of leaded gasoline in vehicles equipped with catalytic converters, and the requirements that set a lower limit on motor vehicle gasoline mileage under the Clean Air Act and the National Emission Act of 1975. EPA’s analysis indicated that the effects of these programs are such that any area with 1976 lead concentrations that are not in excess of 5.5 µg/m³, monthly mean, will attain a standard of 1.5 µg/m³ maximum monthly mean, by 1982, assuming no other changes in emissions. EPA’s analysis does not consider rollbacks or other changes in mobile-source lead emissions.

In the SIP analysis, the State would use a screening technique in the form of a modified rollback model * to determine when the federal programs for the reduction of lead in gasoline, for the use of lead additive, in catalytic converters, and for minimizing gasoline consumption will result in attainment of the standard. If the analysis shows that the standard will not be attained until after the attainment date in the plan, the plan would have to contain whatever measures are needed to attain the standard by the attainment dates.

Second, the State would then model the feasible point sources of lead regardless of measured air quality concentrations in their vicinity: primary lead smelters, secondary lead smelters, primary copper smelters, lead-gasoline additive plants, lead-acid battery manufacturing plants that produce 1,200 or more batteries per day, and all other sources that emit 25 or more tons per year of lead. The State would have to use the lead additive plant as the primary impact of these sources on lead air concentrations. The State would develop and evaluate control strategies that would cover such sources if necessary.

These four source categories were selected based upon an analysis of their air quality impact. That analysis indicated that due to their fugitive emissions in the case of the smelters and the magnitude of their stack emissions in the case of lead gasoline additive plants and battery manufacturing plants, these source categories presented the potential for the greatest localized stationary source impacts.

Third, for each area in the vicinity of an air quality monitor that has recorded lead concentrations in excess of the lead standard, the States should have to analyze the problem using modified rollback.

In so doing, the State would investigate sources of lead emissions other than those covered in the first two parts above. Other sources include mobile-sources, smaller lead point sources, or categories of lead sources such as facilities that burn waste crankcase oil that contains lead.

The above strategy is in EPA’s judgment adequate to quantify lead air problems for purposes of developing attainment plans. It does not require the most sophisticated techniques for quantifying lead air quality problems, because State resources are at this time severely limited. If EPA required the most advanced techniques, few States would be able to submit acceptable analyses in a timely manner. A State that desires more detail in its analysis, however, should attempt more sophisticated analyses, such that on a case-by-case basis, mobile sources using dispersion models and the generation of a lead emission inventory based upon measured emissions.

There may be source categories other than those specified in the second part of the above approach that have the potential for causing violations of the national standard for lead. EPA has identified one such category, but this identification is based on limited data concerning the amount of fugitive emissions from the facilities. EPA does not feel that the data are sufficient to conclude that fugitive emissions from this category are sufficient to warrant the potential for causing violations of the national standard for lead.
3.6 LEAD AIR MONITORING REQUIREMENTS

EPA's revising the air quality monitoring requirements to incorporate the recommendations of EPA's Standing Air Monitoring Work Group. These new requirements will cover all criteria pollutants and will be in addition to those existing for particulate matter. EPA has published a criteria document and promulgated a national ambient air quality standard. So that persons interested in the requirements that pertain to lead, the implementation plans can review the lead monitoring proposal, however, EPA is proposing and will promulgate the lead monitoring requirements with the remainder of the lead regulations. These requirements will eventually be incorporated into the air quality monitoring requirements that will apply to all the criteria pollutants.

The regulations proposed below would require ambient monitoring for lead in urban areas. Lead emissions come predominantly from mobile sources. EPA estimates that emissions from this category account for approximately 90 percent of national emissions. Furthermore, most of these emissions occur in urban areas; hence the requirement for urban area monitoring.

A limited ambient monitoring program will be sufficient on a national basis to determine whether the limitation on lead in gasoline is resulting in the attainment and maintenance of the lead NAAQS. Thus, only relatively few monitors are needed in the major urban areas across the country on a permanent basis to develop an air quality trend database. 3.6.1 Urban Area Monitoring. Permanent lead monitoring will be required only in the following areas:

Any urbanized area with a population greater than 500,000, or
Any urbanized area with lead concentrations equal to or in excess of 1.5 ug/m³, maximum 30-day arithmetic mean, measured since January 1, 1974.

These criteria were selected to ensure that any area with the potential for exceeding the lead NAAQS, or that has already exceeded the NAAQS, would have to monitor ambient lead levels. An urbanized area with a population greater than 500,000 would be expected to have sufficient traffic density to pose a potential threat to the NAAQS.

Lists of areas that meet the above criteria are presented in Tables 1 and 2 below.

EPA recommends that States also monitor smaller urban areas on an intermittent basis to determine their status with respect to the NAAQS. Such monitoring would be considered "Special Purpose Monitoring," in keeping with the terminology of the SAMWG. States would have discretion in identifying the additional areas where monitoring will be conducted, selecting appropriate monitoring sites, and scheduling the time period over which the sampling will be conducted. EPA suggests several specified monitoring options: sampling during the course of every other year for five years until a trend is established, then sampling every third year, and finally every 1-6 month interval every year thereafter. If violations of the NAAQS are found, permanent monitoring may be established. EPA recommends that urbanized areas greater than 100,000 in population be included in this supplemental monitoring program.

At least two monitors will be required as a minimum for urban area monitoring. The permanent sites established would be considered "National Air Quality Trend Stations" (NAQTS), in keeping with the terminology of the SAMWG. The minimum sampling frequency would be one sample every six days. Each EPA Regional Administrator would have the authority to specify more than two monitors, however, if he found that two monitors are insufficient to determine if the lead NAAQS were being attained and maintained. These additional monitors would be classified as "Special Air Monitoring Stations" (SLAMS) in keeping with the terminology of the SAMWG.

The analysis of the 24-hour samples could be performed for either individual samples or composite samples of the samples collected over a calendar month. The sample analysis will use the Federal reference method, which EPA is proposing in 40 CFR Part 50 along with the NAAQS, or equivalent methods. The proposed reference method consists of the collection of the ambient sample using a high volume air sampler (hi-vol), with analysis for lead by atomic absorption.

Two types of monitoring sites will be needed as a minimum for urban area ambient lead monitoring—a roadway site and a neighborhood site. The objective of both site types is to measure in areas where people are being exposed to maximum lead concentrations in the ambient air. Both site types are needed to determine exposure of receptors to lead concentrations arising primarily from automotive sources and to determine the effect on air quality of the federal program for the reduction of lead in gasoline.

The roadway site would be located near residences that are in the vicinity of a major roadway (arterial, freeway, interstate, etc.) passing through a residential community or downtown center city area.

The neighborhood site would be located in an area of high density traffic and population, but not necessarily adjacent to major roadways. The preferred location for this site type would be at or near play areas or schools because of the seriousness of lead exposure for small children.

EPA's "Supplementary Guidelines for Lead Implementation Plans" ² will specify the siting requirements for each of the site types.

Since the lead ambient air sampling method is the same as that for particulate matter, a State may designate existing particulate matter sites as lead monitoring sites if the stations meet the siting requirements. EPA's "Supplementary Guidelines for Lead Implementation Plans" ³ will specify conditions for doing so.

3.7 REVIEW OF NEW SOURCES AND MODIFICATIONS

3.7.1 New Stationary Sources. EPA is not proposing modifications to the new source review requirements in the action below. Since this portion of the lead implementation plan requirements is part of a much larger issue, EPA believes that the new source review provisions for lead plans should be harmonized by promulgating separate action concerning new source review.

In the Federal Register of December 21, 1975 (41 FR 53565), EPA gave advance notice of a proposed revision to 40 CFR 51.18 concerning new source review. The notice indicated that EPA was considering the establishment of a system for reviewing new sources where the complexity of the review would depend on the size of the proposed source. The proposed regulations for new source review would establish two size criteria for new source modifications. Below the lower limit (emission of five tons per year) no new source review would be needed. Between the lower and higher limit (emissions of 25 tons per year), a source for the source modification with emission limitations would be needed, but no air quality analysis would be needed. Above the higher limit, an air quality analysis would be needed.

Lead point sources that are smaller than major lead sources (i.e., less than 25 tons per year) would not be subject to public comment requirements.

3.7.2 Indirect Sources. The Clean Air Act Amendments of 1977 prohibit EPA from requiring State Implementation Plans to contain a new source review program for indirect sources. Therefore, the proposed regulations do not require States to review new indirect sources.

3.7.3 Significant Deterioration. In the regulations proposed below, EPA has not proposed a definition of what is meant by significant deterioration with regard to lead.

Under the Clean Air Act Amendments of 1977, however, EPA must promulgate regulations for the prevention of significante
icant deterioration for any pollutant for which EPA promulgates a new national ambient air quality standard. EPA must promulgate these regulations within two years after promulgation of the standard.

3.8 SOURCE SURVEILLANCE

EPA does not propose any changes to the regulations on source surveillance to account for the new lead standard therefore, States must follow the same requirements set forth therein for lead as for the other criteria pollutants. The requirements for continuous monitoring of emissions will not be applied at this time to lead SIPs, however, because there are no in-stack lead monitors that measure both particulate and gaseous lead simultaneously. If such a monitor becomes available, EPA will then determine whether to require continuous in-stack lead monitors.

3.9 MISCELLANEOUS

In addition to the revisions discussed above, the proposal below contains several minor revisions that are necessary to differentiate certain regulations that apply to other criteria pollutants. The items covered in the guideline are—

4. ADDITIONAL GUIDANCE

4.1 SUPPLEMENTARY GUIDELINES

EPA has prepared a draft guideline, "Supplementary Guidelines for Lead Implementation Plans," that will cover aspects of the SIP development process not covered in the revisions to the SIP requirements. The items covered in this guideline are—

Comments on this draft are invited as part of this rulemaking. Information on how to obtain copies is given in §4.3 below.

The document, "Control Techniques for Lead Air Emissions," contains technical information that States can use in developing their analyses and control strategies. Included in the document is information about—

Processes that produce lead emissions,

Techniques applicable for control of lead emissions from both stationary and mobile sources and their costs,

Lead emission factors,

Impact of TNP controls on lead emissions, and

Particle size distribution of lead emissions from source categories (this information may be needed to operate dispersion models that account for particle deposition).

4.2 EXAMPLE LEAD CONTROL STRATEGY

To assist the States in developing implementation plans for the proposed lead air quality standard, EPA is developing an example lead control strategy. The example is scheduled for completion in March 1978 and will be made available through the OAQPS Guideline Series.

4.3 AVAILABILITY OF REFERENCES

EPA will make the "Supplementary Guidelines for Lead Implementation Plans" available to the State and local air pollution control agencies through the EPA Regional Offices. A list of these offices and appropriate persons to contact are presented below.


Mr. H. Luger, Librarian, EPA, Region II, Federal Office Building, 20 Federal Plaza, New York, N.Y. 10007.


Ms. Barbara Fields, Air and Hazardous Mat­erials Division, Office of Air Quality Planning and Analysis, Vol. IV, 344 Cour­ land, NE., Atlanta, Ga. 30308.

Ms. Lou W. Tilley, Librarian, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604.

Ms. Dee Crawford, Librarian, EPA, Region VI, First International Building, 1301 Elm Street, Dallas, Tex. 75207.

Ms. Connie McKenzie, Librarian, EPA, Region VII, 1735 Baltimore Avenue, Kansas City, Mo. 64106.

Ms. Dianne Grah, Librarian, EPA, Region VIII, 1800 Lincoln Street, Denver, Colo. 80203.

Ms. Jean Cicciello, Librarian, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

Ms. Arveila J. Weir, Librarian, EPA, Region X, 1200 Sixth Avenue, Seattle, Wash. 98101.

A copy of most reference material cited herein is available for public inspection at these Regional Offices. A copy of all reference material cited herein is available for public inspection at the EPA Public Information Reference Unit, the address of which is at the beginning of this preamble. In addition, there will be a number of additional copies of the draft "Supplementary Guidelines for Lead Implementation Plans" available for distribution to members of the general public. Persons who desire a copy may write or call—

U.S. Environmental Protection Agency Public Information Center (PM 215) 401 M Street, S.W. Washington, D.C. 20460

Telephone: 202-755-0707

5. ENVIRONMENTAL AND ECONOMIC IMPACT

EPA has conducted studies of the environmental and economic impacts of implementing a national ambient air quality standard for lead. Copies of EPA's draft environmental and economic impact studies may be obtained from:

Mr. Joseph Padgett, Director Strategies and Air Standards Division U.S. Environmental Protection Agency Research Triangle Park, N.C. 27711 Telephone: 919-941-3304

5.1 ENVIRONMENTAL IMPACT

The principal environmental impact of setting and implementing the lead standard will be the reduction of airborne levels of lead and reversal over time of the present trend of accumulation of lead in systems, principally soil and sediments. Reduction of lead emissions will also result in reduction of emissions of particulate matter and other metals at sources requiring control.

5.2 ECONOMIC AND INFLATION EFFECTS

The Environmental Protection Agency has determined that this document contains a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107 and certifies that an Economic Impact Analysis has been prepared.

Economic impacts will result primarily from control of lead emissions from primary lead and copper smelters, secondary lead smelters, gray iron foundries, gasoline lead additive manufacturers, and lead-­acid storage battery manufacturers.

6. REFERENCES

1. Supplementary Guidelines for Lead Im­plementation Plans, Draft. For information on availability for review, see § 4.5, above.


TABLE I—Urbanised areas 1 greater than 500,000 population (1970 census) 2

<table>
<thead>
<tr>
<th>AQC No.</th>
<th>Area</th>
<th>043..</th>
<th>New York, N.Y.-Northeastern States</th>
</tr>
</thead>
<tbody>
<tr>
<td>024...</td>
<td>Los Angeles-Long Beach, Calif.</td>
<td>067...</td>
<td>Chicago, Ill.-Northwestern In­diana</td>
</tr>
<tr>
<td>045...</td>
<td>Philadelphia, Pa.-N.J.</td>
<td>123...</td>
<td>Detroit, Mich.</td>
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<td>110...</td>
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</tr>
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<td>047...</td>
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<td>070...</td>
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<td>197...</td>
<td>Pittsburgh, Pa.</td>
</tr>
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</tr>
<tr>
<td>239...</td>
<td>Milwaukee, Wis.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
PROPOSED RULES

1. In §51.1, paragraph (k) is revised as follows:

(k) "Point source" means the following:

(i) For particulate matter, sulfur oxides, carbon monoxide, hydrocarbons, and nitrogen dioxide—

(1) Any stationary source causing emissions in excess of 90.7 metric tons (100 tons) per year of the pollutant in a region containing an area whose 1970 "urban place" population was equal to or greater than one million; or

(2) Any stationary source causing emissions in excess of 22.7 metric tons (25 tons) per year of the pollutant in a region containing an area whose 1970 "urban place" population, as defined by the U.S. Bureau of the Census, was equal to or greater than one million; or

(ii) Any stationary source causing emissions in excess of 22.7 metric tons (25 tons) per year of the pollutant in a region containing an area whose 1970 "urban place" population, as defined by the U.S. Bureau of the Census, was equal to or greater than one million; or

(iii) Without regard to amount of emissions, stationary sources such as those listed in Appendix C to this part.

2. Section 51.12, paragraph (e) is amended by adding paragraph (3) as follows:

§ 51.12 Control strategy: General.

(e) * * *

(3) This paragraph covers only plans to attain and maintain the national standards for particulate matter, sulfur oxides, carbon monoxide, photochemical oxidants, hydrocarbons, and nitrogen dioxide.

3. Section 51.17 is amended by (1) revising the heading to read "Air quality surveillance: Particulate matter, sulfur oxides, carbon monoxide, photochemical oxidants, hydrocarbons, and nitrogen dioxide," and (2) adding paragraph (d) as follows:

§ 51.17 Air quality surveillance: Particulate matter, sulfur oxides, carbon monoxide, photochemical oxidants, hydrocarbons, and nitrogen dioxide.

(d) This section covers only plans to attain and maintain the national standards for particulate matter, sulfur oxides, carbon monoxide, photochemical oxidants, hydrocarbons, and nitrogen dioxide.

4. A new section 51.17b is added as follows:

§ 51.17b Air quality surveillance: Lead.

(a) The plan must provide for the establishment of at least two permanent lead ambient air quality monitors in each urbanized area (as defined by the U.S. Bureau of the Census) —

(1) That has a 1970 population greater than 1,300,000 persons; or

(2) Where lead air quality levels currently exceed or have exceeded 1.5 micrograms per cubic meter for two consecutive months or a combination of two or more such months during the calendar year.

(b) The monitors must be operated on a minimum sampling frequency of one 24-hour sample every six days.

(c) The sampling network described in the plan must contain at least one road- or neighborhood site and be sited in accordance with the procedures specified in EPA's "Supplementary Guidelines for Lead Implementation Plans."

(d) The two sites will be part of the "National Air Quality Trends Stations" (NAQTS).

(e) The Regional Administrator may specify more than two monitors if he finds that two monitors are insufficient to adequately determine if the lead standard is being attained and maintained. He may also specify monitors in areas outside the areas covered in paragraph (a) of this section. These additional monitors will be part of the "State
PROPOSED RULES

and Local Air Monitoring Stations" (SLAMS).

(f) The plan must include a description of the proposed sampling sites.

(g) The following elements of the monitoring system must follow 40 CFR Part 50:

(1) The type of monitor.

(2) The procedures for operating the monitor.

(3) The procedures for analysis of the samples collected from the monitors.

(h) Existing sampling sites being used for sampling particulate matter may be designated as sites for sampling lead if they meet the siting criteria of "Supplementary Guidelines for Lead Implementation Plan".

(i) The plan must provide that all lead air quality samplers will be established and operational as expeditiously as practicable but no later than two years after the date of the Administrator's approval of the plan.

(j) The analysis of the 24-hour samples may be performed for either individual samples or composites of the samples collected over a calendar month.

5. A new subpart E is added as follows:

Subpart E—Control Strategy: Lead

§ 51.80 Demonstration of attainment.

(a) Each plan must contain a description of the standard that will be attained and maintained in the following areas:

(1) Areas in the vicinity of the following point sources of lead:

(i) Primary lead smelters.

(ii) Secondary lead smelters.

(iii) Primary copper smelters.

(iv) Lead gasoline additive plants.

(v) Lead-acid battery manufacturing plants that produce 1200 or more batteries per day.

(vi) Any other stationary source that emits 25 or more tons per year of lead or lead compounds.

(2) Any other area that has lead air concentrations in excess of the national standard for lead, measured since January 1, 1974.

(b) The plan must demonstrate that the measures, rules, and regulations contained in the plan are adequate to provide for the attainment of the national standard for lead within the time prescribed by the Act and for the maintenance of that standard for a reasonable period thereafter.

(c) The plan must include the following:

(1) A summary of the computation, assumptions, and judgments used to determine the reduction of emissions or reduction of the growth in emissions that will result from the application of the control strategy.

(2) A presentation of emission level expected to result from application of each measure of the control strategy.

(3) A presentation of the air quality levels expected to result from application of the overall control strategy presented either in tabular form or as an isopleth map showing expected maximum concentrations.

§ 51.81 Emissions data.

(a) The plan must contain a summary of the baseline lead emission inventory based upon measured emissions or, where measured emissions are not available, documented emission factors. The point source inventory on which the summary is based must contain all sources that emit five or more tons of lead per year. The inventory must be summarized in a form similar to that shown in Appendix D.

(b) The plan must contain a summary of projected lead emissions for—

(1) Areas in the vicinity of the point sources from the date by which EPA must approve or disapprove the plan if no extension under section 110(e) of the Clean Air Act is granted.

(2) At least five years from the date by which EPA must approve or disapprove the plan if an extension is requested under section 110(e) of the Clean Air Act.

(c) Any other longer period if required by the Administrator.

(d) The plan must contain a description of the method used to project emissions.

(e) The plan must contain an identification of the sources of the data used in the projection of emissions.

§ 51.82 Air quality data.

(a) The plan must contain a summary of all lead air quality data measured since January 1974. The plan must include an evaluation of the data for reliability, suitability for calibrating dispersion models (when such models will be used), and representativeness. Where possible, the air quality data used must be for the same baseline year as for the emission inventory.

(b) If additional lead air quality data are desired to determine lead air concentrations in areas suspected of exceeding the lead national ambient air quality standard, the plan may include data from any previously collected filters from particulate matter high volume samplers. In determining the lead content of the filters for control strategy demonstration purposes, a State may use methods other than the reference method, such as X-ray fluorescence.

(c) The plan must also contain a tabulation of or isopleth map showing maximum air quality concentrations based upon projected emissions.

§ 51.83 Certain urbanized areas.

For urbanized areas with measured lead concentrations in excess of 4.0 μg/m³, monthly mean measured since January 1, 1974, the plan must employ the modified rollback model for the demonstration of attainment as a minimum, but may use an atmospheric dispersion model if desired.

§ 51.84 Areas around significant point sources.

(a) The plan must contain a calculation of the maximum lead air quality concentrations and the location of those concentrations resulting from the following point sources for the demonstration of attainment:

(1) Primary lead smelters.

(2) Secondary lead smelters.

(3) Primary copper smelters.

(4) Lead gasoline additive plants.

(5) Any other stationary source that emits 25 or more tons per year of lead or lead compounds.

(b) In performing this analysis, the State shall use an atmospheric dispersion model.

§ 51.85 Other areas.

For each area in the vicinity of an air quality monitor that has recorded lead concentrations in excess of the lead national standard, the plan must employ the modified rollback model as a minimum, but may use an atmospheric dispersion model if desired for the demonstration of attainment.

§ 51.86 Data bases.

(a) For interstate areas, the analysis from each constituent State must, where practicable, be based upon the same regional emission inventory and air quality baseline.

(b) Each State shall submit to the appropriate Regional Office with the plan, but not as part of the plan, emissions data and information related to emissions as identified by the following:

The National Emission Data System (NEDS) point source coding forms for all lead point sources, and area source coding forms for all lead sources that are not lead point sources.

(2) The Hazardous and Trace Emissions System (HATREMS) point source coding forms for all lead point sources, and area source coding forms for all lead sources that are not lead point sources.

(c) Air quality data. Each State shall submit to the appropriate Regional Office with the plan, but not as part of the plan, all lead air quality data measured since January 1, 1974, in accordance with the procedures and data forms specified in chapter 3.4.0 of the "AEROS User's Manual" concerning Storage and Retrieval of Aerometric Data (SLAMS).

§ 51.87 Measures.

(a) The lead control strategy must include the following:

(1) A description of each control measure that is incorporated into the lead plan.

(b) Copies of or citations to the enforceable laws and regulations to implement the measures adopted in the lead plan.
(c) A description of the administrative procedures to be used in implementing each selected control measure.

(d) A description of enforcement methods including, but not limited to, procedures for monitoring compliance with each of the selected control measures, procedures for handling violations, and a designation of agency responsibility for enforcement or implementation.

§ 51.88 Data availability.

(a) The State shall retain all detailed data and calculations used in the preparation of lead analyses and plan, make them available for public inspection, and submit them to the Administrator at his request.

(b) The detailed data and calculations used in the preparation of the lead analyses and control strategies is not considered a part of the lead plan.

[FR Doc.77-36586 Filed 12-13-77; 8:45 am]
DEPARTMENT OF THE TREASURY

Monetary Offices

TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY

Form Revisions
RULES AND REGULATIONS

[4810–25]
Title 31—Money and Finance: Treasury
CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY
PART 128—TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY
Form Revisions
AGENCY: Department of the Treasury.
ACTION: Form revisions.
SUMMARY: The Department of the Treasury herewith promulgates amendments to the Treasury International Capital reporting requirements. Treasury International Capital (TIC) Forms B-1, B-1 Supplement, B-2 and B-3 are being revised to enhance the usefulness of the reported data by structuring the data according to their source within the banks, by reducing the complexity of the monthly reports, and by making data categories and definitions as consistent as feasible with those used in Federal Reserve System reports filed by banks.
DATES: The Department finds that notice and public procedures under the provisions of 5 U.S.C. 553 are not necessary in this case, since the amendments pertain only to rules of agency procedure and serve generally to reduce the reporting burden upon the public. Moreover, drafts of the new forms were sent to present B Series reporters for their comments. In addition, there is good cause to make the amendments effective immediately on December 14, 1977. The amendments shall apply to all reports filed as of April 30, 1978, and for any period ending after April 30, 1978. For reports filed as of April 30, 1978 only, reporters shall file both the old and new monthly forms. Reporters on the Supplement to International Capital Form B-1 shall file the final form of that series as of December 31, 1977.
PRIMAR Y AUTHORS: Mr. John G. Murphy, Jr., Attorney/Advisor, Office of the General Counsel, Department of the Treasury, Room 253, Main Treasury Building, Pennsylvania Avenue at 15th Street NW, Washington, D.C. 20220, 202-565-5981.
SUPPLEMENTARY INFORMATION: The principal features of the new Treasury international capital forms are:
1. Separation of the liabilities and claims of the reporting banks themselves from their custody liabilities to foreigners and foreign claims on foreigners held by them for the account of their domestic customers;
2. Separate reporting of amounts due to, and due from, the reporting banks’ own foreign offices;
3. Provision for a full identification of dollar claims on foreign banks, to parallel the existing category of dollar liabilities to foreign banks;
4. Expansion of the country stub to meet the need for data on individual countries of Eastern Europe, and to add two additional Latin American countries and a line for Middle Eastern regional financial organizations;
5. Provision for semiannual reports of claims on individual countries in the “Other” geographic categories, to parallel the existing semiannual reports of liabilities to these countries; and provision for reporting dates of June 30 and December 31, instead of the present April 30 and December 31 report dates for the liabilities reports;
6. Adoption of time remaining to maturity as the basis of the maturity analysis of bank claims on foreigners, instead of the present original maturity basis, to parallel the basis which is used by the banks and by the Federal Reserve System, and to improve the comparability of the data with data from other countries;
7. Extension to brokers and dealers of the requirement to report certain of their own liabilities, and all of their custody liabilities, to foreigners;
8. Adoption of a broadened concept of “foreign public borrower” in the claims reporting, to replace the present category of “foreign official institution”, which is too narrow to produce meaningful information on lending to the public sector of foreign countries; and
9. Reduction of the reporting burden by:
   (a) Elimination of the distinction between short-term and long-term in the monthly reports;
   (b) Substantial simplification of the monthly report forms by reducing details on types of claims;
   (c) Provision for the reporting of the maturity analysis of claims, of claims held for domestic customers, and of foreign currency liabilities and claims, quarterly instead of monthly;
   (d) Elimination of the present quarterly reports of liabilities to banks’ own foreign branches and head offices; and
   (e) Provision for accepting reports on computer print-outs in the same format as the forms in lieu of reports on the printed forms.
In addition, the regulations have been amended to reflect transfer of responsibility for administration of Part 128 within Treasury from the Assistant Secretary for International Affairs to the Assistant Secretary for Economic Policy.
The text of the amendments is as follows:
1. Section 128.2(c) is amended to read as follows:
§ 128.2 Reports.
   (c) All persons required to report, other than banks and banking institutions, shall furnish the reports required under Subparts B and C of this part to the Federal Reserve Bank of New York. Banks and banking institutions shall furnish the required reports to the Federal Reserve Bank of the district in which such bank or banking institution has its principal place of business in the United States. In the event that any person required to report has no principal place of business within a Federal Reserve district, the information shall be furnished directly to the Office of the Assistant Secretary for Economic Policy, Department of the Treasury, Washington, D.C. 20220 or to such agency as the Department of the Treasury may designate.
2. Section 128.10 is amended to read as follows:
§ 128.10 Copies.
Copies of the forms described in this subpart with instructions may be obtained from any Federal Reserve Bank or from the Office of the Assistant Secretary for Economic Policy, Treasury Department, Washington, D.C. 20220.
3. Section 128.11 is amended to read as follows:
§ 128.11 International Capital Form BL-1: Reporting bank’s own liabilities to “foreigners” payable in dollars.
On this form banks, banking institutions, brokers and dealers in the United States are required to report monthly to a Federal Reserve bank their own liabilities to “foreigners”, payable in dollars, as of the last day of business of the month.
4. Section 128.11a is added to read as follows:
§ 128.11a International Capital Form BL-2: Custody liabilities of reporting banks, brokers and dealers to “foreigners” payable in dollars.
On this form banks, banking institutions, brokers and dealers in the United States are required to report monthly to a Federal Reserve bank assets held on behalf of “foreigners” which represent claims payable in dollars on institutions or individuals in the United States, as of the last day of business of the month.
5. Section 128.11b is added to read as follows:
§ 128.11b International Capital Form BC: Reporting bank’s own claims on “foreigners” payable in dollars.
On this form banks and banking institutions in the United States are required to report monthly to a Federal Reserve
bank their own claims on “foreigners” payable in dollars as of the last day of business of the month.

6. Section 128.12 is amended to read as follows:
§ 128.12 International Capital Form
BQ—1 (A): Claims on “foreigners” payable in dollars.

On this form banks and banking institutions in the United States are required to report quarterly as of the last business day of each March, June, September and December, to a Federal Reserve bank their own claims on “foreigners” payable in dollars and assets held for the account of domestic customers which represent claims on “foreigners” payable in dollars.

7. Section 128.12a is added to read as follows:
§ 128.12a International Capital Form
BQ—2 (A): Liabilities to, and claims on, “foreigners” payable in foreign currencies.

On this form banks and banking institutions in the United States are required to report quarterly as of the last business day of each March, June, September and December, to a Federal Reserve bank their own liabilities to, and claims on, “foreigners” payable in foreign currencies and assets held for the account of domestic customers which represent claims on “foreigners” payable in foreign currencies.

8. Section 128.13 is amended to read as follows:
§ 128.13 International Capital Form
BL—1 (A): Reporting bank’s own liabilities to “foreigners” payable in dollars. (Short form).

This form may be filed in lieu of Form BL-1 by reporters who have reportable items for only a few countries or geographical areas.

9. Section 128.13a is added to read as follows:
§ 128.13a International Capital Form
BL—2 (A): Custody liabilities of reporting banks, brokers and “foreigners” payable in dollars. (Short form).

This form may be filed in lieu of Form BL-2 by reporters who have reportable items for only a few countries or geographical areas.

10. Section 128.13b is added to read as follows:
§ 128.13b International Capital Form
BC(3): Reporting bank’s own claims on “foreigners” payable in dollars. (Short form).

This form may be filed in lieu of Form BC by reporters who have reportable items for only a few countries or geographical areas.

11. Section 128.13c is added to read as follows:
§ 128.13c International Capital Form
BQ—1 (A): Claims on “foreigners” payable in dollars. (Short form).

This form may be filed in lieu of Form BQ-1 by reporters who have reportable items for only a few countries or geographical areas.

12. Section 128.13d is added to read as follows:
§ 128.13d International Capital Form
BQ—2 (A): Liabilities to and claims on “foreigners” payable in foreign currencies. (Short form).

This form may be filed in lieu of Form BQ-2 by reporters who have reportable items for only a few countries or geographical areas.

13. Section 128.14 is amended to read as follows:
§ 128.14 International Capital Form
BL—1 (SA): Reporting bank’s own liabilities to “foreigners” payable in dollars in countries not listed separately on Form BL-1.

On this form banks, banking institutions, brokers and dealers in the United States are required to report twice a year, as of June 30 and December 31, to a Federal Reserve bank their own liabilities to “foreigners” payable in dollars in countries not listed separately on Form BL-1.

14. Section 128.14a is added to read as follows:
§ 128.14a International Capital Form
BQ—2 (SA): Custody liabilities of reporting banks, brokers and dealers to “foreigners” payable in dollars in countries not listed separately on Form BL-2.

On this form banks, banking institutions, brokers and dealers in the United States are required to report twice a year, as of June 30 and December 31, to a Federal Reserve bank assets held on behalf of “foreigners” in countries not listed separately on Form BL-2 which represent claims payable in dollars on institutions or individuals in the United States.

15. Section 128.14b is added to read as follows:
§ 128.14b International Capital Form
BC(SA): Reporting bank’s own claims on “foreigners” payable in dollars in countries not listed separately on Form BC.

On this form banks and banking institutions in the United States are required to report twice a year, as of June 30 and December 31 to a Federal Reserve bank their own claims on “foreigners” payable in dollars in countries not listed separately on Form BC.

16. Section 128.23 is amended to read as follows:
§ 128.23 Alternative methods of reporting.

In lieu of reports on the forms described in this subpart, the required data may be reported on computer printouts in the same format, signed by a responsible officer of the reporting institution; or on punch cards, magnetic tape, or other media that can be processed by data processing equipment, accompanied by a printed copy of the data reported which must be signed by a responsible officer of the reporting institution. The proposed method and format of reporting must be acceptable to the Federal Reserve Bank of the district in which the report is filed, and must be approved in writing by that bank.

17. Section 128.30 is amended to read as follows:
§ 128.30 Copies.
Covers of the forms described in this subpart with instructions may be obtained from a Federal Reserve bank or from the Office of the Assistant Secretary for Economic Policy, Department of the Treasury, Washington, D.C. 20220.


Beatrice N. Vacca,
Acting Assistant Secretary
for Economic Policy.

INTERNATIONAL CAPITAL FORMS

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

[Form Approved: OMB No.: 0648-0580, 0540, 0541, 0542, 0543]

GENERAL INSTRUCTIONS AND DEFINITIONS FOR THE PREPARATION OF REPORTS ON THE TREASURY, INTERNATIONAL CAPITAL BANKING FORMS

A. INTRODUCTION

The purpose of the Treasury International Capital Forms is to gather timely and reliable information on international capital movements.

The reports forms filed by banks (Forms BL—1, BL—2, BC—1, BC—2, Alternate Forms BL—1A, BL—2A, Form BC(SA), and Suppements to Forms BL—1, BL—2 and BC) are designed to obtain data on the foreign liabilities and claims of banks for their own account, data on the liabilities of banks, brokers and dealers as custodians for foreign-owned assets held in the United States, and data on the claims of domestic customers of the banks on “foreigners” as shown in the records of the banks. The data are required by the U.S. Government for the formulation of international monetary and financial policies and for the balance of payments of the United States.


FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
reported by individual respondents will not be published or otherwise publicly disclosed. Aggregate data derived from reports on this form may be published or otherwise disclosed in a manner which will not reveal the amounts reported by any individual respondent. The sealed responses may be made available to other Federal agencies, insofar as authorized by the terms of the Federal Reports Act (44 U.S.C. 3501 et seq.) and the International Investment Survey Act of 1976 (22 U.S.C. 3101 et seq.).

D. WHO MUST REPORT

All banks and banking institutions (including bank holding companies) in the United States, branches, agencies, subsidiaries, and other affiliates located in the United States of foreign banks and banking institutions, who for their own account or for the account of others have liabilities to, or claims on, "foreigners," as defined in the instructions for the Treasury International Capital Forms, are required to report the liabilities and claims on the appropriate forms, unless the amounts fall below the exemption level specified on the form.

C. FILING OF REPORTS

Reports on the Treasury International Capital Forms should be submitted within the time limits specified on the forms.

Reports of any bank or banking institution should include its branches in the United States and should be filed with the Federal Reserve Bank of the district in which the bank or banking institution is located.

Reports of any Edge Act or Agreement subsidiary engaged in banking should be filed separately with the Federal Reserve Bank of the district in which the bank or banking institution is located.

Reports of any bank holding company should include its foreign banking subsidiaries and should be filed separately with the Federal Reserve Bank of the district in which the holding company is located.

Reports of any bank or banking institution should be filed with the Federal Reserve Bank of New York. Reports should be mailed to:

International Reports Division, International Research Department, Federal Reserve Bank of New York, 28 Liberty Street, New York, N.Y. 10045.

D. DEFINITIONS

1. "United States." For purposes of these reports, the term "United States" shall mean the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the following: American Samoa, the Canal Zone, Guam, Midway Island, the Virgin Islands, and posessions and recognized central banks of other foreign countries.

2. "Person." For purposes of these reports, "person" shall include an individual, partnership, association, corporation or other organization.

3. "Foreigner." For purposes of these reports, "foreigner" shall include:

(a) Any individual, including a citizen of the United States, residing outside the United States.

(b) Any partnership, association, corporation or other organization created or organized under the laws of a foreign country, excepting branches and agencies thereof located in the United States.

(c) Any branch, subsidiary or other affiliated organization within a foreign country of a bank or banking institution, or other organization, or any organization created or organized under the laws of a foreign country or of the United States.

(d) Any government of a foreign country or any subdivision or affiliate thereof, created by treaty or convention.

(e) Any affiliate, subsidiary or other organization or agency within a foreign country of a bank or banking institution, or other organization, or any organization created or organized under the laws of a foreign country or of the United States.

(f) Any international or regional organization, or affiliate or subsidiary thereof, created by treaty or convention.

(g) Any bank or banking institution, or organization, or subordinate or affiliated agency thereof, created by treaty or convention.

(h) Any foreign official or representative of a foreign government, or domestic or foreign bank, or other organization or entity, whether located in the United States or abroad.

(i) Any government, or organization, or subordinate or affiliated agency thereof, created by treaty or convention.

(j) Any bank or banking institution, or organization, or affiliate thereof, created by treaty or convention.

(k) Any foreign official or representative of a foreign government, or domestic or foreign bank, or other organization or entity, whether located in the United States or abroad.

(l) Any bank or banking institution, or organization, or affiliate thereof, created by treaty or convention.

(m) Any foreign official or representative of a foreign government, or domestic or foreign bank, or other organization or entity, whether located in the United States or abroad.

(n) Any bank or banking institution, or organization, or affiliate thereof, created by treaty or convention.

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the account of its domestic customers.

12. "Long-term" securities. "Long-term" securities are those having a contractual maturity (e.g., stocks) or a maturity of more than one year from the date of issuance.

13. "Short-term." For purposes of these reports, the term "short-term" (applied to obligations of U.S. Treasury, of U.S. Government corporations and Federally-subsidized agencies, and of States and municipalities) shall mean having a maturity of one year or less from the date of issuance.

E. METHOD OF REPORTING FOREIGN COUNTRIES AND INTERNATIONAL AND REGIONAL ORGANIZATIONS

In general, liabilities to, and claims on, "foreigners" should be reported opposite the foreign country or geographical area in which the foreigner resides.

Liabilities to, and claims on, "foreigners" in territories, possessions and other non-territorial areas of a foreign country should be reported opposite the geographical area in which the "foreigner" resides, and not opposite the parent country. For example, liabilities to "foreigners" in the British West Indies should be reported opposite the British West Indies and not opposite the United Kingdom.

Liabilities to, and claims on, foreign branches or agencies of a "foreign official institution" should be reported opposite the country to which the "official institution" belongs, and not opposite the foreign branch or agency that is acting as an "official institution" for the countries in which they are located. For example, a deposit at the Netherlands Embassy in Santiago, Chile, should be reported opposite the Netherlands, and not opposite Chile. Also, liabilities to, and claims on, a United States branch or agency of a "foreign official institution" should be reported opposite the country to which the "official institution" belongs.

(F) Payments to or from other media that can be processed by data-processing equipment, accompanied by a printed copy of the data reported which must be signed by a responsible officer of the reporting agency.

The proposed method and format of reporting must be acceptable to the Federal Reserve Bank of the district in which the report is filed, and must be approved in writing by that bank.

INTERNATIONAL CAPITAL FORM BL-1/BL-1(A)

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

[Form Approved: OMB No. 048-R0542]

INSTRUCTIONS FOR THE PREPARATION OF MONTHLY FORM BL-1 OR ALTERNATE FORM BL-1(A) IN RELATION TO LIABILITIES TO "FOREIGNERS" PAYABLE IN DOLLARS

Note.—This report should be filed not later than the fifteenth day following the last day of the month.

PART I—GENERAL INSTRUCTIONS

A. INTRODUCTION

The purpose of this report is to gather timely and accurate information on international capital movements.

This report form is designed to obtain data on the liabilities, as defined in these instructions, of banks in the United States for their own account payable in dollars to "foreigners." Amounts reported in this form should be on a gross basis, without deduction of any offsets.

The General Instructions and Definitions for the Preparation of Reports on the Treasury International Capital Banking Forms apply to the preparation of reports on this form, as well as the general and specific instructions contained herein.

This report is required by law (12 U.S.C. 96a; 23 U.S.C. 286c; 23 U.S.C. 3103; E.O. 9560; E.O. 10309; E.O. 10481; E.O. 10507; 8 U.S.C. 1440) and cannot result in a civil penalty not exceeding $10,000 (22 U.S.C. 3105). Willful failure to report can result in criminal prosecution and imprisonment for not more than ten years, or both.

Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a fine, imprisonment, or both (12 U.S.C. 95a; 31 CFR 128.4(a)).

Data reported on this form will be held in confidence by the Department of the Treasury and will not be published or otherwise publicly disclosed. Aggregate data derived from reports on this form may be published or otherwise disclosed in a manner which will not reveal the identities of any individual respondents.

F. DEFINITIONS

The definitions applicable to reporting on Form BL-1 are set forth in the General Instructions and Definitions for the Preparation of Reports on the Treasury International Capital Banking Forms.
The following items should be excluded from amounts reported on this form:

1. Capital stock, notes and debentures of the reporting bank held by "foreigners.
2. The permanent capital invested in agencies, branches, subsidiaries and other affiliates in the United States by foreign banks with head offices located outside the United States.
3. Offsets against reportable gross liabilities to "foreigners.
5. Unutilized credits from "foreigners.
6. Credit commitments from "foreigners.
7. Forward exchange contracts.

II. REPURCHASE AGREEMENTS

The sale of any assets to "foreigners" under agreements to repurchase the assets should be reported as a borrowing from "foreigners" in column 3, 6, or 10, as appropriate.

Note.—Foreign loans which are sold to "foreigners" under repurchase agreements should continue to be reported on Form BC as loans to the original borrowers. Similarly, other assets representing claims on "foreigners" which are sold to "foreigners" under repurchase agreements should continue to be reported on Form BC.

Long-term securities which are sold to "foreigners" under repurchase agreements are not to be reported on Form BC as transactions with "foreigners". (See Instructions to Form S, Part I, Section F, Exclusions From Reporting.)

I. TREATMENT OF TRUST ACCOUNTS CREATED IN THE UNITED STATES

Trusts created in the United States by foreign insurance companies, by other foreign companies, or by foreign governments, are considered to be "foreign" for purposes of this report. Accordingly, deposit balances held with you by domestic trustees for the account of such trusts should be reported as liabilities to "foreigners.

Trusts created in the United States by branches or agencies located in the United States of foreign insurance companies are considered to be domestic for purposes of this report. Deposit balances of such trusts are not reportable on this form.

The figures reported on this form show the gross of your own liabilities payable in dollars to "foreigners. Accordingly, report liabilities regardless of whether or not there are offsets against these liabilities.

Deposits held for the account of "foreigners" which are set aside as margin or security against debts of "foreigners" and which will be released upon payment of such indebtedness are to be included in the figures reported on this form. For purposes of this report, deposits held by you for the account of "foreigners" which are set aside against letters of credit; in anticipation of payment by "foreigners" of outstanding acceptances; for interest, sinking fund and bond redemption payments; or for other similar purposes should also be included in your reported figures.

PART II.—SPECIFIC INSTRUCTIONS RELATING TO PARTICULAR COLUMNS ON FORMS BL-1 AND BL-1A (See references on Report Forms to Instructions (a) through (e) below.)

(a) The following are not to be regarded as "foreign countries" for purposes of this report: American Samoa, the Canal Zone, Guam, Midway Island, Puerto Rico, the Virgin Islands, and Wake Island.

(b) Report items of reportable liabilities to "foreigners", without the deduction of any offsets. Overdrafts in the account of "foreigners" should be reported on Form BC.

(c) Report under this heading time deposits, open account; negotiable time certificates of deposit; and savings deposits. Exclude negotiable time certificates of deposit issued to "foreigners", the aggregate amounts of such certificates issued to "foreigners" and excluded from these columns should be reported in the spaces provided at the bottom of this form.

(d) Report your bank's own liabilities to "foreigners" other than deposits, including Federal Funds borrowings, borrowings under repurchase agreements, deferred credits, and other liabilities to "foreigners" in your accounts. The sale to "foreigners" of participations in pools of loans, in which the terms of the participation are different from the terms of the loans, should be included.

(e) (1) U.S. Banks: Report amounts due to your own foreign branches and your significant majority owned foreign subsidiaries—i.e., all foreign subsidiaries which are consolidated in your "Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries)" filed with the bank regulatory agencies.

(2) Agencies branches and majority-owned subsidiaries of foreign banks: Report amounts due to your "directly related" foreign institutions, i.e. (1) your head office or parent(s); (2) a foreign institution of which your head office or parent is a wholly-owned subsidiary; and (3) foreign branches, agencies and wholly-owned subsidiaries of institutions included in (1) and/or (2) above and/or of the reporting institution itself.

PART III.—SPECIFIC INSTRUCTIONS FOR PREPARING REPORTS ON ALTERNATE SHORT FORM BL-1(A)

A. Liabilities which are reportable opposite not more than twenty country, "Other" area, or international and regional category lines listed on Form BL-1 (e.g., France, Canada, Other Asia, or Latin American Regional) may be reported on Form BL-1(A) in alphabetical order.

B. The numerical code which appears on Form BL-1 after the name of each country, "Other" area, and international and regional category must be shown for each line reported on Form BL-1(A), after the name.

C. Figures for the area totals and the grand total lines printed on Form BL-1(A) must be calculated and entered on the form.
MONTHLY REPORT TO FEDERAL RESERVE BANK OF REPORTING BANK'S OWN LIABILITIES TO "FOREIGNERS" PAYABLE IN DOLLARS

Note: This report should be filed not later than the fifteenth day following the last day of the month.

This report is required by the 12 U.S.C. (310, 310a) and 31 C.F.R. 310. Failure to report can result in a civil penalty not exceeding $1,000 and/or a criminal penalty not exceeding $5,000, or both. Any person who knowingly fails to make this report may be punished by a fine of not more than $10,000, or, if a natural person, imprisonment for not more than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a fine, imprisonment, or both (12 U.S.C. 310a; 31 C.F.R. 310.10).

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### FOREIGN COUNTRIES

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## RULES AND REGULATIONS

### International Capital Form BL-1

#### MONTHLY REPORT TO FEDERAL RESERVE BANK OF
USING BANK’S OWN LIABILITIES TO “FOREIGNERS”

**PAYABLE IN DOLLARS**

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| Gabon              | 5240-2 |
| Ghana              | 5241-9 |
| Guinea             | 5260-4 |
| Liberia            | 5320-1 |
| Libya              | 5310-8 |
| Morocco            | 5400-2 |
| Namibia            | 5450-0 |
| South Africa       | 5370-9 |
| Tunisia            | 5170-9 |
| Other Africa       | 5800-9 |
| **TOTAL AFRICA**   | 5899-9 |

| **OTHER COUNTRIES** |      |
| Australia          | 6008-3 |
| All Other          | 6100-2 |
| **TOTAL OTHER COUNTRIES** | 6199-2 |

#### INTERNATIONAL + REGIONAL

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FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
### ALTERNATE MONTHLY REPORT TO FEDERAL RESERVE BANK OF REPORTING BANK’S OWN LIABILITIES TO "FOREIGNERS" PAYABLE IN DOLLARS

**Note:** This report should be filed not later than the fifteenth day following the last day of the month.

This report is required by 31 U.S.C. 310, 7 U.S.C. 310, and 3103; 31 U.S.C. 610, 6104; 15 U.S.C. 310, 3104; 15 U.S.C. 610, 6104. Failure to file report may result in civil or criminal penalties not exceeding $10,000 or a term of not more than two years, or both. Any corporation or any person who is knowingly a party to such violation may be punished by a fine, imprisonment, or both 31 U.S.C. 3104; 15 U.S.C. 6104.

**As of:** Date

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<th>Other Liabilities (d)</th>
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<th>To Unaffiliated &quot;Foreign&quot; Banks</th>
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<th>To All Other &quot;Foreigners&quot;</th>
<th>Total Bank’s Own Liabilities to &quot;Foreigners&quot;</th>
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**International Capital Form BL-1(A)**

**As of:** Date

#### FOREIGN COUNTRIES

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<thead>
<tr>
<th>Code</th>
<th>Demand Deposits (b)</th>
<th>Time and Savings Deposits (c)</th>
<th>Other Liabilities (d)</th>
<th>To “Foreign Official Institutions” (Including central banks)</th>
<th>To Unaffiliated &quot;Foreign&quot; Banks</th>
<th>To Own Foreign Offices (e)</th>
<th>To All Other &quot;Foreigners&quot;</th>
<th>Total Bank’s Own Liabilities to &quot;Foreigners&quot;</th>
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**TOTAL EUROPE**

**TOTAL LATIN AMERICA AND CARIBBEAN**

**TOTAL ASIA**

**TOTAL AFRICA**

**TOTAL OTHER COUNTRIES**

**TOTAL INTERNATIONAL & REGIONAL**

**GRAND TOTAL**

**TOTAL NEGOCIABLE CERTIFICATES OF DEPOSIT ISSUED TO FOREIGNERS AND EXCLUDED FROM:**

| COLUMN 2 | COLUMN 5 | COLUMN 9 | 82001 |

**OFFICIAL SIGNATURE**

**FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977**
INSTRUCTIONS FOR THE PREPARATION OF THE SEMIANNUAL FORM BL-1 (SA): BANK'S OWN LIABILITIES TO "FOREIGNERS" PAYABLE IN DOLLARS IN COUNTRIES NOT LISTED SEPARATELY ON FORM BL-1

PART I—GENERAL INSTRUCTIONS
A. INTRODUCTION
The purpose of this report is to gather timely and reliable information on international capital movements. This form is designed to obtain data on reporting institutions' own dollar liabilities to "foreigners" in countries which are not listed separately on Form BL-1. The amounts reportable on this form represent the details by country of the amounts reportable for the same date in columns 1 through 11 of Form BL-1 (or of alternate Forms BL-1(A)) opposite "Other Europe," "Other Latin American and Caribbean," "Other Asia," "Other Africa," and "All Other."

This report is required by law (12 U.S.C. 96a; 22 U.S.C. 286f; 22 U.S.C. 3105; E.O. 6560; E.O. 10033; 31 CFR 128). Failure to report can result in a civil penalty not exceeding $10,000 (22 U.S.C. 3105). Willful failure to report can result in criminal prosecution and upon conviction a fine of not more than $10,000, or, if a natural person, imprisonment for not more than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both (12 U.S.C. 96a; 31 CFR 128.4(a)).

Data reported on this form will be held in confidence by the Department of the Treasury and the Federal Reserve Banks acting as fiscal agents of the Treasury. The data reported by individual respondents will not be published or otherwise publicly disclosed. Aggregate data derived from reports on this form may be published or otherwise disclosed in a manner which will not reveal the amounts reported by an individual respondent. Data reported by individual respondents may be made available to other Federal agencies, insofar as authorized by the Federal Reports Act (44 U.S.C. 3501 et seq.) and the International Investment Survey Act of 1976 (22 U.S.C. 3101 et seq.).

B. WHO MUST REPORT
All banks, banking institutions, brokers and dealers who are required to report on Form BL-1 as of June 30 or December 31 are also required to file a report for the same date on this form.

C. EXEMPTIONS
Banks, banking institutions, brokers and dealers who are exempt from reporting on Form BL-1 are also exempt from reporting on this form. There is no separate exemption level applicable to this form.

D. DEFINITIONS AND OTHER GENERAL INSTRUCTIONS
The definitions and other general instructions for reporting on Form BL-1/BL-1(A) are also applicable to this form.

PART II—SPECIFIC INSTRUCTIONS RELATING TO PARTICULAR COLUMNS ON FORM BL-1 (SA)
The specific instructions applicable to Form BL-1/BL-1(A) are also applicable to this form.
<table>
<thead>
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<th>FOREIGN COUNTRY</th>
<th>Code</th>
<th>To Foreign Official Institutions</th>
<th>To Unaffiliated &quot;Foreign&quot; Banks</th>
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### INTERNATIONAL CAPITAL TONA BL-1(SA)

#### Name of Reporter:

**Millers AND RE6UMTI0NS**

#### To "Foreign Official Institutions" (including central banks)

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<th>Other Liabilities</th>
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#### Code List:

- **Cameroon 51209**
- **Cape Verde 51206**
- **Central African Empire 51206**
- **Chad 51202**
- **Congo 20209**
- **Congo (Brazzaville) 52208**
- **Democratic Republic (Kambove By the house) 51202**
- **Eritrea 52109**
- **Equatorial Guinea (Fernando Po) 51207**
- **Gabon 52207**
- **Gambia, The 52207**
- **Guinea 52207**
- **Guinea-Bissau 54402**
- **Ivory Coast 53007**
- **Kenya 53007**
- **Lesotho 53007**
- **Madagascar 53406**
- **Malawi 53503**
- **Mauritania 53708**
- **Mauritius 53805**
- **Mozambique 54002**
- **Niger 54208**
- **Rwanda 55007**
- **Zamibia 57207**
- **Zimbabwe 58208**

#### Country List May Be Altered by the Treasury as Conditions Require.

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**OFFICIAL SIGNATURE**

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**FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977**
UNITED STATES, including the branches, agencies, departments, instruments, and other affiliates located all financial claims on persons in the United States, including bank holding companies in the United States, the reporting institution must report claims on persons in the United States which represent a single aggregation of such claims were in the report's custody, or must inform the U.S. persons against whom the claims are in the custody of "foreigners", identifying the countries and the amounts relevant to each.

C. EXEMPTIONS

A report as of any one month need not be filed by a bank, banking institution, broker or dealer if the grand total of "custody" liabilities payable in dollars to "foreigners" averaged less than $2,000,000 in the six months ending with and including the reporting date, computed by averaging the monthly closing balances. Banks or banking institutions, brokers and dealers. Amounts reported on this form should be on a gross basis without deduction of any offsets.

The General Instructions and Definitions for the Preparation of Reports on the Treasury International Capital Banking Forms apply generally to reports in foreign currencies as well as in U.S. dollars. The form and instructions should be read and understood before making the report.

PART I—GENERAL INSTRUCTIONS

A. INTRODUCTION

The purpose of this report is to gather timely and reliable information on international capital and financial transactions with persons in the United States that are nonbanking subsidiaries, branches, and other affiliates located abroad, including bank holding companies. Information is also desired concerning foreign operations of bank holding companies in the United States, including the branches, subsidiaries, and other affiliates located abroad.

This report form is designed to obtain data on custody liabilities, as defined in these instructions, payable in dollars to "foreigners" which represent claims, acquired either here or abroad, on persons in the United States, including the United States government and State and municipal governments, to which the report applies. The data on these liabilities may be obtained from the records of reporting banks and banking institutions. For purposes of this report, foreign banks, dealers who are reporting for the first time, banks or banking institutions having branches in the United States, and should be filed, separately with the Federal Reserve Bank of the district in which the branch is located. For the first month-end on which its reportable custody liabilities to "foreigners" aggregate more than $2,000,000, and continue to report for the five succeeding months, after which the averaging provision will apply.

D. FILING OF REPORTS

Report on this form should be submitted not later than 15 days following the month to which the report applies.

Reports of any bank or banking institution should include the reportable liabilities to "foreigners" located in the United States, and should be filed with the Federal Reserve Bank of the district in which the bank or bank holding company is located.

Reports of any Edge Act or Agreement subsidiary engaged in shipping should be filed separately with the Federal Reserve Bank of the district in which the Edge Act or Agreement subsidiary is located.

Reports of any bank holding company should include the custody liabilities to "foreigners" of the holding company itself and of its financing and nonbanking subsidiaries, and a bank holding company should be filed separately with the Federal Reserve Bank of the district in which the holding company is located.

Reports of brokers and dealers should be filed with the Federal Reserve Bank of New York.

E. USE OF ALTERNATE SHORT FORM BL-2(A)

Reporting institutions who have custody liabilities to foreigners located in 20 or fewer of the countries, areas, or regions listed on Form BL-2, may at their option file the required reports on the alternate short Form BL-2(A).

Banks, banking institutions, brokers, and dealers who are reporting for the first time, however, must file their initial report on Form BL-2. A reporting institution is considered to be a "foreigner" for purposes of this report. Accordingly, assets held in your vaults for foreign account.

H. TREATMENT OF TRUST ACCOUNTS

Trusts created in the United States by foreign insurance companies, by other foreigners, or by other banks, banking institutions, brokers or dealers in the United States, other than "foreigner", are not to be regarded as "foreign" for purposes of this report.

Trusts created in the United States by foreign banks, dealers who are reporting for the first time, or other banks, banking institutions, brokers or dealers in the United States, are not to be regarded as "foreigner", of the United States, other than "long-term" securities, which represent claims, acquired either here or abroad, on persons in the United States, include banks, except for "long-term" (original maturity of more than 2 years) securities—i.e., stocks and "long-term" obligations, bonds, notes, mortgages and private issues in the United States. Include negotiable certificates of deposit whether issued by your bank or by other banks in the United States; commercial paper issued by financial and nonfinancial business, commercial paper issued by foreign banks.

F. DEFINITIONS

The definitions applicable to reporting on Form BL-2 are set forth in the General Instructions and Definitions for the Preparation of Reports on the Treasury International Capital Banking Forms.

G. EXCLUSIONS

The following should be excluded from amounts reported on this form:

1. "Long-term" securities—i.e., stocks and "long-term" obligations, bonds, notes, mortgages and private issues in the United States.

2. "Short-" or "long-term" securities or other assets held in custody for "foreigners" which have been sold and will be reacquired by the institutions under repurchase agreements undertaken by you or by other banks, banking institutions, brokers or dealers in the United States.

3. Gold, silver and currency which you hold in your vaults for foreign account.

I. TREATMENT OF OFFSETS AND "SAFEKEEPING" ACCOUNTS

The figures reported on this form should be excluded from the gross of your "custody" liabilities payable in dollars to "foreigners". Accordingly, assets held for "foreigners" regardless of whether or not there are offsets against their liabilities.

Assets held for the account of "foreigners" which are set aside as margin or security against debts or "foreigners" and which will be released upon payment of such indebtedness are to be included in the figures reported for this form. For purposes of this report, assets held by you for the account of "foreigners" which are set aside against letters of credit, in anticipation of payment by "foreigners" of outstanding acceptances, for interest, sinking fund and bond redemption payments; or for other similar purposes, should also be included in your reported figures.

PART II—SPECIFIC INSTRUCTIONS RELATING TO PARTICULAR COLUMNS ON FORMS BL-2 AND BL-2A (See references on Report Forms and Instructions (a) through (c) below.)

(a) All banks and banking institutions (including bank holding companies) in the United States, including the branches, agencies, departments, and other affiliates located in the United States of foreign banks and banking institutions, and all brokers and dealers in the United States, who are engaged in banking business in the United States, shall report under the regulations contained in this report.

All banks and banking institutions (including bank holding companies) in the United States, including the branches, agencies, departments, and other affiliates located in the United States of foreign banks and banking institutions, and all brokers and dealers in the United States, who are engaged in banking business in the United States, shall report under the regulations contained in this report.

The figures reported on this form should be excluded from amounts reported on this form:

1. "Long-term" securities—i.e., stocks and "long-term" obligations, bonds, notes, mortgages and private issues in the United States.

2. "Short-" or "long-term" securities or other assets held in custody for "foreigners" which have been sold and will be reacquired by the institutions under repurchase agreements undertaken by you or by other banks, banking institutions, brokers or dealers in the United States.

3. Gold, silver and currency which you hold in your vaults for foreign account.

Trusts created in the United States by foreign insurance companies, by other foreigners, or by other banks, banking institutions, brokers or dealers in the United States, are not to be regarded as "foreigner", of the United States, other than "long-term" securities, which represent claims, acquired either here or abroad, on persons in the United States, include banks, except for "long-term" (original maturity of more than 2 years) securities—i.e., stocks and "long-term" obligations, bonds, notes, mortgages and private issues in the United States. Include negotiable certificates of deposit whether issued by your bank or by other banks in the United States; commercial paper issued by financial and nonfinancial business, commercial paper issued by foreign banks.

Trusts created in the United States by foreign banks, dealers who are reporting for the first time, or other banks, banking institutions, brokers or dealers in the United States, are not to be regarded as "foreigner", of the United States, other than "long-term" securities, which represent claims, acquired either here or abroad, on persons in the United States, include banks, except for "long-term" (original maturity of more than 2 years) securities—i.e., stocks and "long-term" obligations, bonds, notes, mortgages and private issues in the United States. Include negotiable certificates of deposit whether issued by your bank or by other banks in the United States; commercial paper issued by financial and nonfinancial business, commercial paper issued by foreign banks.
cerns in the United States; and "short-term" (original maturity of one year or less) obligations of U.S. Government corporations and Federally-sponsored agencies and of States and local governments.

Do not include bills drawn by "foreigners" and accepted by you, unless you are holding them for the account of "foreigners." Do not include "short-term" securities held for foreign account under repurchase agreements.

(d) Report all other items held for the account of "foreigners" which represent claims on persons in the United States, except for "long-term" securities (see preceding paragraph). Include, for example, participations granted to "foreigners" in loans to domestic customers, and bills held for collection for foreign customers.

(e) Report as a memorandum item the amount of negotiable certificates of deposit held in custody for "foreigners" whether issued by you or by other banks in the United States, including U.S. offices of foreign banks.

PART III—SPECIFIC INSTRUCTIONS FOR PREPARING REPORTS ON ALTERNATE SHORT FORM BL-2(A)

A. Custody liabilities which are reportable opposite not more than twenty country, "Other" area, or international and regional category lines listed on Form BL-2 (e.g., France, Canada, Other Asia, or Latin American Regional) may be reported on Form BL-2(A) in alphabetical order.

B. The numerical code which appears on Form BL-2 after the name of each country, "Other" area, and international and regional category must be shown for each line reported on Form BL-2(A), after the name.

C. Figures for the area totals and the grand total lines printed on Form BL-2(A) must be calculated and entered on the form.
**RULES AND REGULATIONS**

MONTHLY REPORT TO FEDERAL RESERVE BANK OF CUSTODY LIABILITIES OF REPORTING BANKS, BROKERS AND DEALERS TO "FOREIGNERS" - PAYABLE IN DOLLARS

Note: This report should be filed not later than the fifteenth day following the last day of the month.

This report is required by law (12 U.S.C. 246, 29 U.S.C. 206, 22 U.S.C. 244, 22 U.S.C. 246a). Failure to report can result in a civil penalty not exceeding $10,000. (12 U.S.C. 246a). Missing reports or reports that cannot be verified by data furnished in this report can result in civil and criminal penalties. (E.O. 6177). Failure to report, or any willful or明知 violation, can result in criminal prosecution and upon conviction, a fine of not more than $5,000, or, if a natural person, imprisonment for not more than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a fine, imprisonment, or both. (12 U.S.C. 246a, 29 C.F.R. 128, 31 C.F.R. 128).

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary for Economic Policy

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INTERNATIONAL CAPITAL FLOW BL-

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary for Economic Policy

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
### Name of Reporter

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**Total of Columns 1-10 (for arithmetic check only)**
**Rule and Regulations**

Alternate monthly report to Federal Reserve Bank of Custody Liabilities of Reporting Banks, Brokers and Dealers to "Foreigners" - Payable in Dollars

Note: This report should be filed not later than the fifteenth day following the last day of the month. The data furnished on this report will be held in confidence.

**ALTERNATE MONTHLY REPORT TO FEDERAL RESERVE BANK OF CUSTODY LIABILITIES OF REPORTING BANKS, BROKERS AND DEALERS TO "FOREIGNERS" - PAYABLE IN DOLLARS**

International Capital Form BL-2(A)

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary
for Economic Policy

This report is required by law (12 U.S.C. 96a; 22 U.S.C. 2861; 22 U.S.C. 3103; E.O. 6560; E.O. 10033; 31 C.F.R. 128). Failure to report can result in a civil penalty not exceeding $10,000 (22 U.S.C. 3105). Willful failure to report can result in criminal prosecution and upon conviction a fine of not more than $10,000, or, if a natural person, imprisonment for not more than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both (12 U.S.C. 96a; 31 C.F.R. 128.4(a)).

Name of Reporter

(Actual figures in thousands of dollars as of close of last business day of month)

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**OFFICIAL SIGNATURE**

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
INTERNATIONAL CAPITAL FORM BL-2(SA)
Department of the Treasury, Office of the Assistant Secretary for Economic Policy
[Form Approved: OMB No. 048-R0541]

INSTRUCTIONS FOR THE PREPARATION OF THE SEMIANNUAL FORM B-2(SA): CUSTODY LIABILITIES OF BANKS, BROKERS AND DEALERS TO "FOREIGNERS" PAYABLE IN DOLLARS IN COUNTRIES NOT LISTED SEPARATELY ON FORM BL-2

NOTE.—This form shall be filed not later than one month following the date of the report.

PART I—GENERAL INSTRUCTIONS
A. INTRODUCTION
The purpose of this report is to gather timely and reliable information on international capital movements. This report form is designed to obtain data on the dollar custody liabilities of banks, banking institutions, brokers, and dealers to "foreigners" in countries which are not listed separately on Form BL-2. The amounts reportable on this form represent the details by country of the amounts reportable for the same date in columns 1 through 11 of Form BL-2 (or of alternate Form BL-2(A)) opposite "Other Europe," "Other Latin America and Caribbean." "Other Africa," and "All Other."

This report is required by law (12 U.S.C. 95a; 22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128). Failure to report can result in a civil penalty not exceeding $10,000 (22 U.S.C. 3105). Willful failure to report can result in criminal prosecution and upon conviction a fine of not more than $10,000, or, if a natural person, imprisonment for not more than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both (12 U.S.C. 95a; 31 CFR 128.4 (a)).

Data reported on this form will be held in confidence by the Department of the Treasury and the Federal Reserve Banks acting as fiscal agents of the Treasury. The data reported by individual respondents will not be published or otherwise publicly disclosed. Aggregate data derived from reports on this form may be published or otherwise disclosed in a manner which will not reveal the amount reported by any individual respondent. Data reported by individual respondents may be made available to other Federal agencies, insofar as authorized by the Federal Reports Act (44 U.S.C. 3501 et seq.) and the International Investment Survey Act of 1976 (22 U.S.C. 3101 et seq.).

B. WHO MUST REPORT
All banks, banking institutions, brokers and dealers who are required to report on Form BL-2 as of June 30 or December 31 are also required to file a report for the same date on this form.

C. EXEMPTIONS
Banks, banking institutions, brokers and dealers, who are exempt from reporting on Form BL-2 are also exempt from reporting on this form. There is no separate exemption applicable to this form.

D. DEFINITIONS AND OTHER GENERAL INSTRUCTIONS
The definitions and other general instructions for reporting on Form BL-2/BL-2(A) are also applicable to reporting on this form.

PART II—SPECIFIC INSTRUCTIONS RELATING TO PARTICULAR COLUMNS ON FORM BL-2 (SA)
This specific instructions applicable to Form BL-2/BL-2(A) are also applicable to this form.
The data furnished in this report will be held in confidence.

Semiannual Report to the Federal Reserve Bank of Custody Liabilities of Reporting Banks, Brokers and Dealers to "Foreigners" in Countries Not Listed Separately on Form FR-2 Payable in Dollars

Note: This report should be filed no later than one month following the date of report.

This report is required by law (12 U.S.C. 95a; 22 U.S.C. 286f; 22 U.S.C. 3103; B.O. 6560; E.O. 10033; 31 C.F.R. 128). Failure to report can result in a civil penalty not exceeding $10,000 (22 U.S.C. 3109). Willful failure to report can result in criminal prosecution and upon conviction a fine not exceeding $5,000, or, if a natural person, imprisonment for not more than one year, in both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both (12 U.S.C. 95a; 31 C.F.R. 128.4(a)).

As of: (Actual figures in thousands of dollars)

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Total of Columns 1-10 for arithmetic check (only)
# International Capital Form BL-2(SA)

**FEDERAL RESERVE BANK OF**

**CUStOM LIABILITIES OF REPORTING BANKS, BROKERS AND DEALERS TO "FOREIGNERS" IN COUNTRIES NOT LISTED SEPARATELY ON FORM BL-2 PAYABLE IN DOLLARS**

**Name of Reporter**

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*Country list may be altered by the Treasury as conditions require.*

**Official Signature**

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
INTERNATIONAL CAPITAL FORM BC/BC(A)

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

(Form Approved:OMB No. 948-R0540)

INSTRUCTIONS FOR THE PREPARATION OF MONTHLY FORM BC/BC (A) REPORTING BANKS' OWN CLAIMS ON "FOREIGNERS" PAYABLE IN DOLLARS

NOTE.—This report should be filed not later than the fifteenth day following the last day of the month.

PART I—GENERAL INSTRUCTIONS

A. INTRODUCTION

The purpose of this report is to gather timely and reliable information on international capital movements.

This report form is designed to obtain data on those assets owned by reporting banks and banking institutions (including bank holding companies) which represent claims, as defined in these instructions, on "foreigners" payable in dollars, acquired or held either here or abroad. Amounts reported on this form should be on a gross basis, without deduction of any offsets. It should be noted that the reporting bank is required to accumulate a registry of claims against "foreigners."

The General Instructions and Definitions for the Preparation of Reports on the Treasury International Capital Banking Forms apply to the preparation of reports on this form, as well as the general and specific instructions below.

This report is required by law (12 U.S.C. 95a; 22 U.S.C. 269f, 22 U.S.C. 3103; E.O. 10033; 31 C.F.R. 128), Failure to report can result in a civil penalty not exceeding $10,000 (22 U.S.C. 3105). Willful failure to report can result in criminal prosecution and upon conviction may be punished by a fine not exceeding $10,000, or, if a natural person, imprisonment for not more than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both (12 U.S.C. 95a; 31 C.F.R. 128a (a)).

Data reported on this form will be held in confidence by the Department of the Treasury and the Federal Reserve Banks acting as fiscal agents of the Treasury. The data reported by individual respondents will not be published or otherwise publicly disclosed. Amendments to the form may be published or otherwise disclosed in a manner which will not reveal the names of individual respondents. Data reported by individual respondents may be made available to other Federal agencies, insofar as authorized by the Federal Reports Act (44 U.S.C. 3501 et seq.) and the International Investment Survey Act of 1976 (22 U.S.C. 3101 et seq.).

B. WHO MUST REPORT

All banks and banking institutions (including bank holding companies) in the United States or held abroad for the benefit of, or controlled by, or representing claims, as defined in these instructions, on "foreigners" payable in dollars, acquired or held either here or abroad. Amounts reported on this form should be on a gross basis, without deduction of any offsets. It should be noted that the reporting bank is required to accumulate a registry of claims against "foreigners.

C. EXEMPTIONS

A report as of any one month need not be filed by any reporting institution if the gross grand total of its claims on "foreigners" payable in dollars averaged less than $2,000,000 in the sixty months ending with and including the reporting date, or computed by averaging the monthly closing balances. Banks or banking institutions having branches in the United States may apply the $2,000,000 exclusion limit separately to each branch.

A bank or banking institution must file a report on Form BC for the first month-end on which its reportable claims on "foreigners" aggregate $2,000,000 or more, and must continue to file reports for the next five succeeding months, after which the averaging period will apply.

D. FILING OF REPORTS

Reports on this form should be submitted not later than 15 days following the month to which the report applies.

Reports of any bank or banking institution should include the reportable claims on "foreigners", as defined in these instructions, to the United States, and should be filed with the Federal Reserve Bank of the district in which the bank or banking institution is located.

Reports of any Edge Act or Agreement subsidiary engaged in banking should be filed separately with the Federal Reserve Bank of the district in which the holding company is located.

Reports of any bank holding company should include the claims on "foreigners" of the holding company itself and of its banking and nonbanking subsidiaries, and should be filed separately with the Federal Reserve Bank of the district in which the holding company is located.

E. USE OF ALTERNATIVE SHORT FORM BC(A)

Reporting institutions who have claims on "foreigners" located in 20 or fewer of the countries, "Other" areas, or international and regional organizations listed on Form BC may at their option file the required reports on the alternate short form BC(A). Banks or banking institutions who are reporting for the first time must file their initial reports on Form BC, regardless of the number of countries, areas, or categories on which they have claims. (See Part III for specific instructions for preparing Form BC(A)).

F. DEFINITIONS

The definitions applicable to reporting on Form BC are set forth in the General Instructions and Definitions for the Preparation of Reports on the Treasury International Capital Banking Forms.

G. EXCLUSIONS

The following should be excluded from amounts reported on this form:

1. "Long-term" securities of foreign issuers.
2. The permanent capital invested in agencies, branches, subsidiaries, and other affiliates outside the United States by banks with head offices located in the United States.
3. Claims against "foreigners" payable in dollars, acquired or held either here or abroad.
4. Claims against "foreigners" payable in dollars, acquired or held either here or abroad.
5. Unutilized credits to "foreigners."
6. Credit commitments to "foreigners."
7.Gold, silver or currency in transit to or from the United States or held abroad for your account.
8. Forward exchange contracts.

H. DISAL AGREEMENTS

The purchase of any asset from "foreigners" under agreements to resell the asset should be reported as a claim on "foreigners" in column 1, 3 or 5, as appropriate.

NOTE.—"Long-term" securities which are purchased from "foreigners" under resale agreements are not to be reported as transactions with "foreigners" on Form S. (See Instruction to Form S, Part E, Section F, Exclusion from Reporting.)

I. PARTICIPATIONS IN POOLS OF LOANS

In cases in which the instrument of participation bears terms (e.g., maturity, interest rate, etc.) that differ from the terms of the loans, the individual loans remain on the books of the reporting bank and should continue to be reported on Form BC. If they are loans to "foreigners," the purchase of such participations in pools of loans from "foreigners" is reported on Form S and the Federal Reserve Bank underwriting foreign bank. Proceeds from the sale of such participations to "foreigners" are considered to be borrowings and should be reported on Form BL-1.

In cases in which the participation is a pro-rata share of the pooled loans, sale of the participation is considered to be the sale of the pooled loans themselves. If the loans sold are loans which have been made to "foreigners," the sale reduces the amount of loans reportable on Form BC. Conversely, if you purchase such participation in loans to "foreigners," no participation should be reported on Form BC.

J. TREATMENT OF "EARMARKED FUNDS"

Deposits and other assets held by "foreign" banks for your account which are set aside as margin or security against debts to "foreigners" and which will be released upon payment of such indebtedness are to be included in the figures reported on this form. Deposits and other assets set aside, as worthless, the amount of which has been written off, partially or entirely, as worthless, the amount which has been written off should no longer be included on this form. Amounts so excluded from this report because of a write-off should be summarized by country and column in a statement attached to the report for the period in which the write-off was made.

PART II—SPECIFIC INSTRUCTIONS RELATING TO PARTICULAR COLUMNS ON FORMS BC AND BC(A)

(See references on Report Form to Instructions (a) through (d) below.)

(a) The following are not to be regarded as "foreign countries" for purposes of this report: American Samoa, the Canal Zone, Guam, Midway Island, Puerto Rico, the Virgin Islands, and Wake Island.

(b) Report with respect to "Foreign public and private borrowers" (column 1) "Unaffiliated foreign banks" (column 3), and "All other foreigners" (column 5) the gross outstanding amount of dollar loans, advances and overdrafts which you have actually granted to "foreigners"; the outstanding amounts of participations you have acquired and shouldered in loans of Export-Import Bank of Washington and of international and regional lending institutions, with or without the guaranty of the United States. The liability of "foreigners" to you on acceptances made for their benefit—i.e., on drafts accepted by you in payment of your claims against "foreigners," is not to be included on this report.

(c) Include advances to "foreigners" under resale agreements (but do not include securities under such agreements which you will sell back to "foreigners.")
Include amounts represented by advices of intent to honor drafts drawn by foreign banks under deferred payment letters of credit (other than those in favor of the Commodity Credit Corporation or other government agency).

Include refinancing acceptances drawn by agencies of foreign banks and presented as agent for its foreign head office or foreign branches of its head office.

Include acceptances created by or on behalf of your foreign branches for the benefit of "foreigners" if such acceptances are endorsed or guaranteed by the U.S. parent bank or a domestic subsidiary of the parent bank.

Include the gross amount of overdrafts actually outstanding on the last business day of the month, according to type of debtor. Do not reduce the amount of overdrafts outstanding by the amount of Federal funds received by your bank on the first business day of the following month, even if such receipts are back-valued in your accounts. Do not include unutilized credits, even if such credits represent firm commitments; or the liability of "foreigners" on acceptances made for their account by other banks in the United States, even if such acceptances are held by you.

(c) Report the gross amount of demand and time balances on deposit with banks located outside the United States, other than your own foreign offices. Include certificates of deposit purchased. Include balances with foreign branches of other U.S. banks. (Overdrafts in your demand balances with foreign banks should be reported in column 8 of Form BC-1 as a liability to "foreigners.")

(d) U.S. banks. Report amounts due from your own foreign branches and your significant majority-owned foreign subsidiaries, i.e., all foreign subsidiaries which are consolidated in your "Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries)" filed with the bank regulatory agencies.

Agencies, branches and majority-owned subsidiaries of foreign banks. Report amounts due from your "directly related" foreign institutions—i.e. (1) your head office or parent(s); (2) a foreign institution of which your head office or parent(s) is a wholly-owned subsidiary; and (3) foreign branches, agencies and wholly-owned subsidiaries of institutions included in (1) and/or (2) above and/or of the reporting institution itself.

PART III—SPECIFIC INSTRUCTIONS FOR PREPARING REPORTS ON ALTERNATE SHORT FORM BC(A)

A. Claims which are reportable opposite not more than twenty country, "Other" area, or international and regional category lines listed on Form BC (e.g., France, Canada, Other Asia, or Latin American Regional) may be reported on Form BC(A) in alphabetical order.

B. The numerical code which appears on Form BC after the name of each country, "Other" area, and international and regional category must be shown for each line reported on Form BC(A), after the name.

C. Figures for the area totals and the grand total lines printed on Form BC(A) must be calculated and entered on the form.
The data furnished on this report will be held in confidence.

MONTHLY REPORT TO FEDERAL RESERVE BANK OF
REPORTING BANK'S OWN CLAIMS ON "FOREIGNERS"
PAYABLE IN DOLLARS

Note: This report should be filed not later than the fifteenth day following the last day of the month.

This report is required by law (12 U.S.C. 95a; 22 U.S.C. 286; 31 U.S.C. 3103; E.O. 6560; E.O. 10033; 31 C.F.R. 128). Failure to report can result in a civil penalty not exceeding $10,000 (22 U.S.C. 3105). Willful failure to report can result in criminal prosecution and upon conviction a fine of not more than $10,000, or, if a natural person, imprisonment for not more than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both (12 U.S.C. 95a; 31 C.F.R. 128.4(a)).

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(Actual figures in thousands of dollars as of close of last business day of month)

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## Monthly Report to Federal Reserve Bank of Reporting Bank's Own Claims on "Foreigners" Payable in Dollars

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**Official Signature**

*FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977*
### Rules and Regulations

**ALTERNATE MONTHLY REPORT TO FEDERAL RESERVE BANK OF**

**REPORTING BANK'S OWN CLAIMS ON "FOREIGNERS"**

**PAYABLE IN DOLLARS**

*Note: This report should be filed not later than the fifteenth day following the last day of the month.*

This report is required by the 12 U.S.C. 2409; 22 U.S.C. 2100; 22 U.S.C. 3103; D.C. 4600; 12 U.S.C. 3105. Failure to report or return a report in time, and upon conviction a fine of not more than $10,000, or, if a fraud or perjury, imprisonment for not more than ten years, or both. Any officer, director, or agent of any entity who by any means conspires in any violation may be punished by a fine, imprisonment, or both 12 U.S.C. Sec. 310 C.F.R. 12.4(a).

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**ALTERNATE MONTHLY REPORT TO FEDERAL RESERVE BANK OF**

**REPORTING BANK'S OWN CLAIMS ON "FOREIGNERS"**

**PAYABLE IN DOLLARS**

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| | TOTAL EUROPE | TOTAL LATIN AMERICA AND CARIBBEAN | TOTAL ASIA | TOTAL AFRICA | TOTAL OTHER COUNTRIES | TOTAL INTERNATIONAL & REGIONAL | GRAND TOTAL |

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**FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977**
This report is required by law (12 U.S.C. 95a; 22 U.S.C. 2861; 22 U.S.C. 3103; E.O. 6560; E.O. 10033; 31 CFR 128). Failure to report can result in a civil penalty not exceeding $10,000 (22 U.S.C. 3105). Willful failure to report can result in criminal prosecution and upon conviction a fine of not more than $10,000, or, if a natural person, imprisonment for not more than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by fine, imprisonment, or both (12 U.S.C. 95a; 31 CFR 128.4(a)).

Data reported on this form will be held in confidence by the Department of the Treasury and the Federal Reserve Banks acting as fiscal agents of the Treasury. The data reported by individual respondents will not be published or otherwise publicly disclosed. Aggregate data derived from reports on this form may be published or otherwise disclosed in a manner which will not reveal the amounts reported by any individual respondent. Data reported by individual respondents may be made available to other Federal agencies, insofar as authorized by the Federal Reports Act (44 U.S.C. 3501 et seq.) and the International Investment Survey Act of 1976 (22 U.S.C. 3101 et seq.).

B. WHO MUST REPORT

All banks and banking institutions who are required to report on Form BC as of June 30 or December 31 are also required to file a report for the same date on this form.

C. EXEMPTIONS

Banks and banking institutions who are exempt from reporting on Form BC are also exempt from reporting on this form. There is no separate exemption applicable to this form.

D. DEFINITIONS AND OTHER GENERAL INSTRUCTIONS

The definitions and other general instructions for reporting on Form BC/BC(A) are also applicable to this form.

PART II—SPECIFIC INSTRUCTIONS RELATING TO PARTICULAR COLUMNS ON FORM BC (SA)

The specific instructions applicable to Form BC/BC(A) are also applicable to this form.
The data furnished on this report will be held in confidence.

Note: This report should be filed no later than one month following date of report.

This report is required by law (31 U.S.C. 522; 22 U.S.C. 2256; 22 U.S.C. 4045; 22 U.S.C. 4062; 25 C.F.R. 136). Failure to report can result in a civil penalty not exceeding $1,000,000 (22 U.S.C. 3105). Criminal failure to report can result in imprisonment for not more than one year, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a fine, imprisonment, or both (12 U.S.C. 95a; 31 C.F.R. 128.4(a)).

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<th>Name of Reporting Bank</th>
<th>On &quot;Foreign Public Borrowers&quot; (a)</th>
<th>On Unaffiliated &quot;Foreign&quot; Banks (b)</th>
<th>On Our Foreign Offices (c)</th>
<th>On All Other &quot;Foreigners&quot; (d)</th>
<th>Total Bank’s Own Claims on &quot;Foreigners&quot; (e)</th>
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*Actual figures in thousands of dollars

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
### SEMIANNUAL REPORT TO FEDERAL RESERVE BANK OF
REPORTING BANK'S OWN CLAIMS ON "FOREIGNERS"
IN COUNTRIES NOT LISTED SEPARATELY ON FORM BC
PAYABLE IN DOLLARS

#### Name of Reporting Bank

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<th>FOREIGN COUNTRIES * (a)</th>
<th>On &quot;Foreign Public Borrowers&quot;</th>
<th>On Unaffiliated &quot;Foreign&quot; Banks</th>
<th>On All Other &quot;Foreigners&quot;</th>
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*Country list may be altered by the Treasury as conditions require.

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FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
INTERNATIONAL CAPITAL FORM BQ-l/BQ-l(A)

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

[Form Approved: OMB No. 048-20058]

INSTRUCTIONS FOR THE PREPARATION OF QUARTERLY FORM BQ-l OR ALTERNATE FORM BQ-l(A) : CLAIMS ON "FOREIGNERS" PAYABLE IN DOLLARS

NOTE:—This report should be filed not later than the twentieth day following the last day of the quarter.

PART I—GENERAL INSTRUCTIONS

A. INTRODUCTION

The purpose of this report is to gather timely and reliable information on international claims against "foreigners." This report form is designed to obtain data on those assets owned by reporting banks and banking institutions (including bank holding companies) and their domestic customers which represent claims as defined in these instructions, on "foreigners" payable in dollars, acquired or held either here or abroad. In so far as data on these claims may be obtained from the records of the reporting bank or banking institution, amounts reported on this form should be on a gross basis, without deduction of any off-set, whether known or otherwise); or for other similar purposes.

The General Instructions and Definitions for reporting capital and noncapital transactions on the Treasury International Capital Banking Forms apply to the preparation of reports on this form, as well as the general and specific instructions below.

This report is required by law (12 U.S.C. 98a; 22 U.S.C. 286f; 23 U.S.C. 5105; E.O. 6500; E.O. 10132; 81 CFR 128). Failure to report can result in a civil penalty not exceeding $10,000 (23 U.S.C. 1805). Willful failure to report or to file reports on time shall be referred to the Department of Justice for criminal prosecution and upon conviction a fine of not more than $10,000, or, if a natural person, imprisonment for not more than one year. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a fine of not more than $10,000, or, if a natural person, imprisonment for not more than ten years, or both. Any attorney, director, or agent of any corporation who knowingly participates in such violation may be punished by a fine of not more than $10,000, or, if a natural person, imprisonment for not more than ten years, or both.

Data reported on this form will be held in confidence by the Department of Treasury and the Federal Reserve Banks acting as fiscal agents of the Treasury. The data reported by individual respondents will not be published or made public. Aggregate data derived from reports on this form may be published or otherwise disclosed in a manner which will not reveal the amounts reported by any individual respondent.

This report form is required by law (12 U.S.C. 98a; 22 U.S.C. 286f; 23 U.S.C. 5105; E.O. 6500; E.O. 10132; 81 CFR 128). Failure to report can result in a civil penalty not exceeding $10,000 (23 U.S.C. 1805). Willful failure to report or to file reports on time shall be referred to the Department of Justice for criminal prosecution and upon conviction a fine of not more than $10,000, or, if a natural person, imprisonment for not more than one year. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a fine of not more than $10,000, or, if a natural person, imprisonment for not more than ten years, or both.

B. WHO MUST REPORT

All banks and banking institutions (including bank holding companies) in the United States, including the branches, agencies, subsidiaries, and other affiliates located here or abroad, and banking institutions, who have claims on "foreigners" payable in dollars reportable on Form BC, are required to report on the last day of any calendar quarter.

C. EXEMPTIONS

A report as of any one quarter-end need not be filed by a bank or banking institution who was not required to report on Form BC as of the same quarter-end month.

D. FILING OF REPORTS

Reports on this form should be submitted not later than 20 days following the quarter-end at which the report applies.

Reports of any bank or banking institution should include claims on "foreigners" of its branches in the United States, and should be filed with the Federal Reserve Bank of the district in which the bank or banking institution is located.

Reports of any Edge Act or Agreement subsidiary engaged in nonbanking business should be filed separately with the Federal Reserve Bank of the district in which the Edge Act or Agreement subsidiary is located.

Reports of any bank holding company should include the claims on "foreigners" of the holding company itself and of its financing and nonbanking subsidiaries, and should be filed separately with the Federal Reserve Bank of the district in which the holding company is located.

E. USE OF ALTERNATE SHORT FORM BQ-l(A)

A bank or banking institution who files a report on Form BC(A) for any quarter-end month may file a report on the alternate short form BQ-l(A) for the same quarter-end. (See Part II for specific instructions for preparing Form BQ-l(A)).

F. DEFINITIONS

The definitions applicable to reporting on Form BQ-1 are set forth in the General Instructions and Definitions for the Preparation of Reports on Treasury International Capital Banking Forms.

G. EXCLUSIONS

The following should be excluded from amounts reported on this form:

1. "Long term" securities of foreign issuers.
2. Loans made to "foreigners" in the form of private placements or underwriting agreements.
3. Offsets against reportable gross claims on "foreigners.""FOREIGNERS" payable in dollars reportable on Form BC(A) for any quarter-end month may file a report on the alternate short form BQ-l(A) for the same quarter-end. (See Part II for specific instructions for preparing Form BQ-l(A)).

The following should be excluded from amounts reported on this form:

1. "Long term" securities of foreign issuers.
2. Loans made to "foreigners" in the form of private placements or underwriting agreements.
3. Offsets against reportable gross claims on "foreigners.""FOREIGNERS" payable in dollars reportable on Form BC(A) for any quarter-end month may file a report on the alternate short form BQ-l(A) for the same quarter-end. (See Part II for specific instructions for preparing Form BQ-l(A)).

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The following should be excluded from amounts reported on this form:

1. "Long term" securities of foreign issuers.
2. Loans made to "foreigners" in the form of private placements or underwriting agreements.
3. Offsets against reportable gross claims on "foreigners.""FOREIGNERS" payable in dollars reportable on Form BC(A) for any quarter-end month may file a report on the alternate short form BQ-l(A) for the same quarter-end. (See Part II for specific instructions for preparing Form BQ-l(A)).
<table>
<thead>
<tr>
<th>Name of Reporting Bank</th>
<th>Code</th>
<th>PART 1. REPORTING BANK'S OWN CLAIMS</th>
<th>PART 2. CLAIMS OF REPORTING BANK'S DOMESTIC CUSTOMERS</th>
</tr>
</thead>
</table>

**Remainder Maturity of Claims on Unaffiliated “Foreigners”**:  
- Remaining Maturity:  
  - Month:  
  - Year:  

**Customer Liability**  
- On Foreign Borrowers  
- On Other Borrowers  
- One-year or Less  
- Over One Year  

**Amount of Claims**  
- Memorandum  
- Outstanding Collections and Other Claims  
- Total of Columns 1-8  

**Notes**:
- The data furnished on this report will be held in confidence.  
- This report should be filed not later than the twentieth day following the last day of the month.  
- This report is required by law (12 U.S.C. 362; 31 U.S.C. 310; 22 U.S.C. 273l; 42 U.S.C. 200b; 42 U.S.C. 200e). Failure to report can result in criminal prosecution and/or civil penalties, to the limit of not more than $10,000, or, if a natural person, imprisonment for not more than one year. Any officer, agent, or employee of any corporation who knowingly participates in such violation may be punished by this fine, imprisonment, or both. (12 U.S.C. 362; 31 U.S.C. 310.)  

**Foreign Countries**  
- AUSTRIA  
- BELGIUM-LUXEMBOURG  
- CZECHOSLOVAKIA  
- DENMARK  
- FINLAND  
- FRANCE  
- GERMANY  
- ITALY  
- SWEDEN  
- SWITZERLAND  
- TURKEY  
- UNITED KINGDOM  
- UNITED STATES  
- BRAZIL  
- CHILE  
- COLOMBIA  
- CUBA  
- DOMINICAN REPUBLIC  
- ECUADOR  
- EGYPT  
- GREECE  
- HUNGARY  
- INDIA  
- LATIN AMERICA AND CARIBBEAN  
- MEXICO  
- NIGERIA  
- NORTHERN IRELAND  
- PAKISTAN  
- SPAIN  
- SOUTH AFRICA  
- TURKEY  
- UNITED STATES  

**LATIN AMERICA AND CARIBBEAN**  
- ARGENTINA  
- BOLIVIA  
- BRASIL  
- CHILE  
- COLOMBIA  
- COSTA RICA  
- CUBA  
- DOMINICAN REPUBLIC  
- ECUADOR  
- EGYPT  
- GREECE  
- HUNGARY  
- INDIA  
- LEBANON  
- MEXICO  
- NIGERIA  
- NORTHERN IRELAND  
- PAKISTAN  
- SPAIN  
- SOUTH AFRICA  

**Note**:
- Actual figures in thousands of dollars as of close of last business day of month.
### Part 1: Reporting Bank’s Own Claims

<table>
<thead>
<tr>
<th>Code</th>
<th>Remaining Maturity of Claims</th>
<th>Memorandum</th>
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<tr>
<td></td>
<td>On Foreign Public Borrowers</td>
<td>On Other Foreign Borrowers</td>
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<td>One Year or Less</td>
<td>One Year or Less</td>
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</table>

### Part 2: Claims of Reporting Bank’s Domestic Customers

<table>
<thead>
<tr>
<th>Code</th>
<th>Deposits</th>
<th>Outstanding Collections and Other Claims</th>
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### Total of Columns 1-8

- **Asia**
  - Bahrain: 4070-3
  - People's Republic of China: 4160-8
  - People's Republic of China: 6450-9
  - People's Republic of China: 6540-9
  - People's Republic of China: 6650-9
  - People's Republic of China: 6750-9
  - People's Republic of China: 6850-9
  - People's Republic of China: 6950-9
  - People's Republic of China: 7050-9
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  - People's Republic of China: 7250-9
  - People's Republic of China: 7350-9
  - People's Republic of China: 7450-9
  - People's Republic of China: 7550-9
  - People's Republic of China: 7650-9
  - People's Republic of China: 7750-9

- **Africa**
  - Algeria: 4020-3
  - Egypt: 4130-3
  - Ethiopia: 4250-3
  - France: 4360-3
  - Great Britain: 4470-3
  - Italy: 4580-3
  - Lebanon: 4690-3
  - Libya: 4800-3
  - Morocco: 4910-3
  - Nigeria: 5100-3
  - South Africa: 5210-3
  - Zaire: 5320-3
  - Other Africa: 5430-3
  - TOTAL AFRICA: 5540-3
  - TOTAL AFRICA: 5650-3

- **Other Countries**
  - Australia: 6000-3
  - All Other: 6110-3

- **INTERNATIONAL & REGIONAL**
  - International: 7290-3
  - European regional: 7390-3
  - Latin American regional: 7490-3
  - Asian regional: 7590-3
  - African regional: 7690-3

- **GRAND TOTAL**: 63125

**OFFICIAL SIGNATURE**

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**FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977**
**ALTERNATE QUARTERLY REPORT TO FEDERAL RESERVE BANK OF**

**Part 1—REPORTING BANK'S OWN CLAIMS ON "FOREIGNERS"**

**Part 2—CLAIMS OF REPORTING BANK'S DOMESTIC CUSTOMERS ON "FOREIGNERS"**

**PAYABLE IN DOLLARS**

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<tr>
<th>Name of Reporting Bank</th>
<th>As of:</th>
<th>Date</th>
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**FOREIGN COUNTRIES**

(a) Remaining Maturity of Claims on Unaffiliated "Foreigners" (b) Memorandum

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- **Negotiable and Readily Transferable Instruments**
- **Deposits**
- **Acceptances**

**ALTERNATE QUARTERLY REPORT TO FEDERAL RESERVE BANK OF**

**Part 1—REPORTING BANK'S OWN CLAIMS ON "FOREIGNERS"**

**Part 2—CLAIMS OF REPORTING BANK'S DOMESTIC CUSTOMERS ON "FOREIGNERS"**

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- **Negotiable and Readily Transferable Instruments**
- **Deposits**
- **Acceptances**

**TOTAL**

**OFFICIAL SIGNATURE**

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
RULES AND REGULATIONS

INTERNATIONAL CAPITAL FORM BQ-2/BQ-2(A)
Department of the Treasury, Office of the Assistant Secretary for Economic Policy
[Form Approved: OMB No. 0651-20059]

INSTRUCTIONS FOR THE PREPARATION OF QUARTERLY REPORTS ON THE INTERNATIONAL CAPITAL FORM BQ-2(A): LIABILITIES TO AND CLAIMS ON "FOREIGNERS" PAYABLE IN FOREIGN CURRENCIES.

Note.—This report should be filed not later than the tenth day following the last day of the quarter.

PART I—GENERAL INSTRUCTIONS

A. INTRODUCTION

The purpose of this report is to gather timely and reliable information on international capital movements. This report form is designed to obtain data on the liabilities of reporting banks and banking institutions (including bank holding companies) to "foreigners" payable in foreign currencies, and on assets owned by reporting banks and banking institutions (including bank holding companies) and their domestic and foreign branches. Claims which represent claims on "foreigners" payable in foreign currencies, acquired or held either here or abroad by these banks, may be obtained from the records of reporting banks and banking institutions. Amounts reported on this form should be a gross basis, without deduction of any offsets. It should be noted that the reports do not constitute a registry of claims against "foreigners."

The General Instructions and Definitions for the Preparation of Reports on the Treasury International Capital Banking Forms apply to the preparation of reports on this form, as well as the general and specific instructions below.

This report is required by law (12 U.S.C. 95a; 22 U.S.C. 286f; 31 CFR 128.4(a); E.O. 10033; 31 CFR 128.) Failure to report knowingly participates in such violation may upon conviction a fine of not more than $10,000 or imprisonment for not more than ten years, or both. Any officer, director or agent of any corporation who was not required to report on Form BL-1 or on Form BC as of the same quarter-end month.

B. WHO MUST REPORT

All banks and banking institutions (including bank holding companies) in the United States, their branches, agencies, subsidiaries, and other affiliates located in the United States or foreign banks and banking institutions, who have liabilities to and claims on "foreigners" reportable on Form BL-1 or claims on "foreigners" reportable on Form BC as of the end of any calendar quarter are required to report on this form.

C. EXEMPTIONS

A report as of any one quarter-end need not be filed by a bank or banking institution which was not required to report on Form BL-1 or on Form BC as of the same quarter-end month.

D. FILING OF REPORTS

Reports on this form should be submitted not later than 20 days following the quarter-end to which the report applies.

Reports of any bank or banking institution should include the reportable liabilities to, and claims on, "foreigners" of their branches in the United States, and should be filed with the Federal Reserve Bank of the district in which the bank or banking institution is located.

Reports of any Edge Act or Agreement subsidiary engaged in banking should be filed separately with the Federal Reserve Bank of the district in which the Edge Act or Agreement subsidiary is located.

Reports of any bank holding company should include the liabilities to, and claims on, "foreigners" of the holding company itself and of its financing and nonbanking subsidiaries, and should be filed separately with the Federal Reserve Bank of the district in which the holding company is located.

E. USE OF ALTERNATE SHORT FORM BQ-2(A)

A bank or banking institution which files reports on both Form BL-1(A) and Form BC(A) for any quarter-end month may file a report on the alternate short Form BQ-2(A) for the same quarter-end. (See Part III for specific instructions for preparing Form BQ-2(A).)

F. DEFINITIONS

The definitions applicable to reporting on Form BQ-2 are set forth in the General Instructions and Definitions for the Preparation of Reports on the Treasury International Capital Banking Forms.

G. EXCLUSIONS

The following should be excluded from amounts reported on this form:

1. "Long-term" securities of foreign issuers.
2. The permanent capital invested in agencies, branches, subsidiaries and other affiliates outside the United States by banks with head offices located in the United States.
3. The permanent capital invested in agencies, branches, subsidiaries and other affiliates in the United States by foreign banks with head offices located outside the United States.
4. Offsets against reportable gross liabilities to, or claims on "foreigners."
5. Contingent liabilities and claims.
6. Utilized credits from or to "foreigners."
7. Credit commitments from or to "foreigners."
8. Gold, silver, or currency in transit to or from the United States or held abroad for your account or for the account of your domestic customers.
10. Conversion of foreign currency liabilities and claims into dollars.

H. CONVERSION OF FOREIGN CURRENCY LIABILITIES AND CLAIMS INTO DOLLARS

For purposes of this report, liabilities and claims payable in foreign currencies should be converted into dollars using the exchange rates prevailing on the report date. Claims expressed in terms of a currency in which the reporting bank has no liabilities to a foreign government should not be included in this report. The dollar value of such claims as shown on your books prior to the invalidation should be summarized by country and column in a statement attached to the report for the period in which the invalidation occurred, unless the claims have been written off the books. (See section "K" below.)

I. FUND PLACED ABROAD FOR ACCOUNT OF DOMESTIC CUSTOMERS AND CORRESPONDENTS

Include in Part 2 of your report funds placed abroad by you for the account of your domestic customers and correspondents. Exclude funds placed abroad through other reporting banks since in accordance with these instructions, such funds should be reported by the bank or banking institution executing the transaction for your account. EXCEPTION! With respect to syndicated credits each participant should report his own share.

J. TREATMENT OF "EXAMINED FUNDS"

Deposits and other assets held by "foreign" banks for your account or for the account of your domestic customers which are set aside as margin or security against debts to "foreigners" and which will be released upon payment of such indebtedness are to be included in the figures reported on this form. These funds may be examined by the Federal Reserve System or any other federal banking agency.

K. OFFSETS, RESERVES AND WRITE-OFFS

The claims figures reported on this form should reflect the gross indebtedness of "foreigners" of you and to your domestic customers. Accordingly, report claims regardless of whether or not there are offsets against those claims. Do not deduct any reserves which you may have established against slow or doubtful items.

When an asset has been written off, partially or entirely, as worthless, the amount that has been written off should no longer be included on this form. Amounts so excluded from this report because of a write-off should be summarized by country and column in a statement attached to the report for the period in which the write-off was made.

PART II—SPECIFIC INSTRUCTIONS RELATING TO PARTICULAR COLUMNS ON FORM BQ-2/BQ-2(A) (See Instructions Relating to Particular Columns on Report Form to Instructions (a) through (d) below.)

(a) The following are not to be regarded as "foreign countries" for the purposes of this report: American Samoa, the Canal Zone, Guam, Midway Island, Puerto Rico, the Virgin Islands, and Wake Island.

(b) Report on your column your own liabilities to "foreigners" payable in foreign currencies, including loans, advances, and overdrafts which have actually been granted to you by foreign banks; the liability on acceptances made by foreign correspondents for your own account, or the liabilities of your domestic customers with your guarantee; and other liabilities to "foreigners" payable in foreign currencies.

(c) Report assets held here or abroad for your own account which represent claims on "foreigners" payable in foreign currencies.

(d) This report should not be regarded as a report on capital movements of "foreigners" and "domestic" customers. Claims and liabilities on "foreigners" payable in foreign currencies should be reported as "foreign exchange" to maintain the distinction between exchanges which are in transit and sales of forward exchange which is not in transit.
include unutilized credits, even if such credits represent firm commitments.

d) Report assets held here or abroad for the account of your customers and correspondents resident in the United States, which represent claims on "foreigners" payable in foreign currencies. (See instruction (c) for details of items to be reported.)

PART III—SPECIFIC INSTRUCTIONS FOR PREPARING REPORTS ON ALTERNATE SHORT FORM BQ-2(A)

A. Liabilities or claims which are reportable opposite not more than twenty country, "Other" area, or international and regional category lines listed on Form BQ-2 (e.g., France, Canada, Other Asia, or Latin American Regional) may be reported on Form BQ-2(A) in alphabetical order.

B. The numerical code which appears on Form BQ-2 after the name of each country, "Other" area, and international and regional category must be shown for each line reported on Form BQ-2(A), after the name.

C. Figures for the area totals and the grand total lines printed on Form BQ-2(A) must be calculated and entered on the form.
## RULES AND REGULATIONS

**QUARTERLY REPORT TO FEDERAL RESERVE BANK OF**

**Part 1**—**REPORTING BANK’S OWN LIABILITIES TO AND CLAIMS ON “FOREIGNERS”**

**Part 2**—**CLAIMS OF REPORTING BANK’S DOMESTIC CUSTOMERS ON “FOREIGNERS”**

**PAYABLE IN FOREIGN CURRENCIES**

### Notes

- This report should be filed not later than the twentieth day following the last day of the month.
- The report is required by law (12 U.S.C. 66a; 22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 6560; E.O. 10033; 31 C.F.R. 128). Failure to report can result in a civil penalty not exceeding $10,000 (22 U.S.C. 3105). Willful failure to report can result in criminal prosecution and a fine of not more than $10,000 or, if a natural person, imprisonment for not more than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both (12 U.S.C. 95a; 31 C.F.R. 128.4(a)).

### Table: Foreign Countries

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*Actual figures in thousands of dollars as of close of last business day of month*
**International Capital Form SQ-2**

**Part 1—Reporting Bank's Own Liabilities and Claims on "Foreigners"**

**Part 2—Claims of Reporting Bank's Domestic Customers on "Foreigners"**

**Favorable in Foreign Currencies**

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**Table**

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<th>Part 2. Claims of Reporting Bank's Domestic Customers (d)</th>
<th>Total of Columns 1-5 (for arithmetic check only)</th>
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<td>Deposits Other Claims</td>
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<td>mill's thou's</td>
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**OFFICIAL SIGNATURE**

**FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977**
ALTERNATE QUARTERLY REPORT TO FEDERAL RESERVE BANK OF
Part 1-REPORTING BANK’S OWN LIABILITIES TO AND CLAIMS ON “FOREIGNERS”
Part 2-CLAIMS OF報導 BANK’S DOMESTIC CUSTOMERS ON “FOREIGNERS”
PAYABLE IN FOREIGN CURRENCIES

This report is required by the Federal Reserve Act (31 U.S.C. §§ 5301, 5312; 32 U.S.C. §§ 242, 243, 246, 247; 34 U.S.C. §§ 5312, 5313; 12 U.S.C. §§ 242, 243, 246, 247), and must be made on or before the first day of each quarter. Failure to file this report may result in a civil penalty not exceeding $10,000, and the court may order that such person be imprisoned for not more than ten years, or if a natural person, imprisonment for not more than one year, or both, any officer, director, or agent of any corporation who knowingly participates in such violation may be subjected to the same civil penalties and imprisonment, or both (12 U.S.C. §§ 242, 243, 246, 247).

Form Approved
OMB No. 048-0053-1

Note: This report should be filed not later than the fifteenth day following the last day of the month.

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<tr>
<th>FOREIGN COUNTRIES (a)</th>
<th>Liabilities to “Foreigners” (b)</th>
<th>Claims on “Foreigners” (c)</th>
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TOTAL: 1999-
TOTAL OTHER COUNTRIES: 1999-
TOTAL OTHER COUNTRIES: 1999-
TOTAL OTHER COUNTRIES: 1999-
TOTAL OTHER COUNTRIES: 1999-
TOTAL OTHER COUNTRIES: 1999-

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
ENVIRONMENTAL PROTECTION AGENCY

REBUTTABLE PRESUMPTION AGAINST REGISTRATION AND CONTINUED REGISTRATION OF PESTICIDE PRODUCTS CONTAINING ETHYLENE DIBROMIDE (EDB)
The Deputy Assistant Administrator, Office of Pesticide Programs, EPA, has determined that the public should also be given notice of the presumption and to solicit additional information relevant to the presumption. A notice of rebuttable presumption against registration shall arise if the evidence related to risk meets the criteria set forth in Section 162.11(a) (3). It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

All registrants and applicants for registration and invited pursuant to 40 CFR 162.11(a) (4) to submit evidence in rebuttal of the presumptions listed in Part II of this notice and, in the case of oncogenicity, to submit information which relates to the risk of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 26, 1975, 40 CFR 162.11(a) (4) (ii)); and other interested parties may submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may voluntarily petition the Agency to cancel a current registration pursuant to Section 6(a) (1) of FIFRA. 

B. Rebuttal Criteria. Section 162.11(a) (4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

1. In the case of a pesticide presumed against pursuant to the acute toxicity or lack of emergency treatment criteria, "that when considered with the formula, packaging, method of use, and proposed restrictions on the directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects" (40 CFR 162.11(a) (4) (i)); and

2. In the case of a pesticide presumed against pursuant to the chronic toxicity criteria, "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrete to levels in man or the environment likely to result in any significant chronic adverse effects" (40 CFR 162.11(a) (4) (ii)).

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error" (40 CFR 162.11(a) (4) (iii)).

C. Benefits Information. In addition to submitting evidence to rebut the presumption of risk § 162.11(a) (5) (iii) provides that a registrant "may submit evidence as to whether the economic, social, and public health and welfare benefits of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence submitted by the registrant, applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifically § 162.11(a) (5) (iii) provides that if the "benefits appear to outweigh the risks," the Administrator may issue a notice of intent to hold a hearing pursuant to Section 6(b) (2) of FIFRA to determine whether the registration(s) should be cancelled or application(s) denied. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to Section 6(c) (6) or Section 6(b) (1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of intent to suspend may be issued pursuant to Section 6(e) of the Act.

Stated below are the § 162.11(a) (3) risk criteria which the Agency has found to have been met or exceeded by registration and applications for registration of pesticide products containing ethylene dibromide (EDB). The Agency's basis for concluding that these risk criteria have been met or exceeded is set out in "Ethylene Dibromide (EDB): Position Document 1," which follows. Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of intent to suspend may be issued pursuant to Section 6(e) of the Act.

## Resources
- **Supplementary Information:**
  - The Deputy Assistant Administrator, Office of Pesticide Programs, EPA, has determined that a rebuttable presumption against registration shall arise if the evidence related to risk meets the criteria set forth in § 162.11(a) (3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the presumption and to solicit additional information relevant to the presumption. A notice of rebuttable presumption against registration shall arise if the evidence related to risk meets the criteria set forth in Section 162.11(a) (3). It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

- **All registrants and applicants for registration and invited pursuant to 40 CFR 162.11(a) (4) to submit evidence in rebuttal of the presumptions listed in Part II of this notice and, in the case of oncogenicity, to submit information which relates to the risk of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 26, 1975, 40 CFR 162.11(a) (4) (ii)); and other interested parties may submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may voluntarily petition the Agency to cancel a current registration pursuant to Section 6(a) (1) of FIFRA.
II. Presumptions

A. Oncogenicity. 40 CFR Section 162.11 (a) (3) (ii) (A) provides that a rebuttable presumption shall arise if a pesticide "(p) induces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure. * * *" As a further clarification of the provision, the preamble to the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens [May 25, 1976; 41 FR 21403] states that "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or malignant tumors in humans or animals."

On the basis of the scientific study and information summarized in the Position Document, the Agency has concluded that this risk index has been exceeded by all registrations and applications for registration of pesticide products containing EDB and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

B. Mutagenicity. 40 CFR Section 162.11 (a) (3) (ii) (B) provides that a rebuttable presumption shall arise if a pesticide "(p) induces mutagenic effects, as determined by multistest evidence."

On the basis of the scientific studies and information summarized in the Position Document, the Agency has concluded that this risk index has been exceeded by all registrations and applications for registration of pesticide products containing EDB, and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

3. Other Chronic or Delayed Toxic Effects. 40 CFR Section 162.11 (a) (3) (ii) (C) provides that a rebuttable presumption shall arise if a pesticide "(p) reduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, and in humans, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety. * * *"

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that this risk index by reproductive effects has been exceeded by all registrations and applications for registration of pesticide products containing EDB and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

III. Additional Grounds for Review

As discussed in detail in the attached Position Document, some data has associated EDB with teratogenic effects in test animals, and analyses available at this time with respect to this effect are not sufficient to warrant the issuance of a Rebuttable Presumption. The agency specifically solicits further evidence bearing on these possible adverse effects. All comments and information received with respect to these potential effects, including analysis thereof, may serve as a basis for a final decision as to the registrability of pesticides containing EDB.

IV. Registrations and Products Subject to the Notice

All registrants and applicants for registration listed below are being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent or until January 30, 1978, to submit evidence in rebuttal of the presumption. However, the Administrator may, if good cause is shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the Federal Register.

A registrant or applicant for registration may, if it desires, assert a business confidentiality privilege over part or all of the information submitted in rebuttal. The registrant or applicant may assert the claim by placing or attaching to the information a cover sheet, stamped or typed legend, other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly marked.

If a confidentiality claim is asserted, the information covered by the claim will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B (41 FR 36906, September 1, 1976). If no confidentiality claim accompanies the information at the time it is received by EPA, EPA will disclose the information in the public comment file but it will be available for public inspection.

If a registrant or applicant does assert a confidentiality claim for some but not all of the information submitted to EPA in rebuttal, the registrant or applicant should furnish two copies of the information to EPA. The first copy should contain all of the information submitted in rebuttal with information claimed as confidential clearly identified. The second copy should be identical to the first except that all information claimed as confidential should be deleted. The second copy will be placed in the public comment file. The rebuttal copy will be treated in accordance with the procedures set out above.

V. Duty to Submit Information on Adverse Effects

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention pursuant to § 162.11 (a) (2) of FIFRA and 40 CFR 162.8 (d). If any registrant of EDB products has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in humans, domestic animals, or wildlife, which have not been previously submitted to EPA, the material must be submitted immediately. Where the registrants certify in accordance to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been previously submitted. The registrants shall notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

VI. Public Comments

During the time allowed for submission of rebuttal evidence, specific comments on the presumptions set forth in this notice and on the material contained in the Position Document are solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals or wildlife, and information as to any laboratory studies in progress or completed, are requested to be submitted to EPA as soon as possible. Specifically, information on the fate and effects of EDB, its impurities, metabolites, and degradation products on flora and fauna, particularly animals with metabolism similar to man, is solicited. Similarly, any studies or comments on the benefits from the use of EDB are requested to be submitted. All comments and information received, as well as any other relevant information and analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pursuant to § 162.11 (a) (5).

All comments and information should be sent to the Office of the Federal Register Section at the address given above, if interested persons desire to inspect the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP-30000/25." Comments and information received within the specified time limit shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11 (a) (5) (ii).

Any interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since (1) all of the information received may serve as a basis for the final determination pursuant to 162.11 (a) (3) and (2) the Agency will not generally publish a summary of information.
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received in the Federal Register at the close of the rebuttal period.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the Federal Register, but rather handled by mail with affected parties. Omissions will be corrected by notice in the Federal Register.

Dated: December 1, 1977.

EDWIN L. JOHNSON, Deputy Assistant Administrator for Pesticide Programs.

ETHYLENE DIBROMIDE
Position Document I

ETHYLENE DIBROMIDE (EDB) WORKING GROUP, ANTHONY INGLIS, PROJECT MANAGER, U.S. ENVIRONMENTAL PROTECTION AGENCY.

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2. Use Pattern.
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I. BACKGROUND

A. CHARACTERISTICS

1. Nomenclature. Ethylene dibromide (EDB) is the common or trivial name for 1,2-dibromoethane. It is a soil and commodity fumigant having both nematocidal and insecticidal uses. Its EPA pesticide number is 042002; NIOSH number is K92765; and

Chemical Abstract System (CAS) number, listed under Ethane, 1,2-dibromo, is 0001060934.

In this document the term EDB refers specifically to the organic molecule ethylene dibromide and does not include inorganic bromide(s) or total bromide(s). These latter two terms are used in the food additive tolerance setting for organic and inorganic bromides (calculated as Br( in or on raw agricultural commodities per se).

There are several minor uses including:
- Control of mountain pine bark beetles in the Western States by Federal and State forestry agencies;
- Control of dry-wood and subterranean termites in structural pest control operations;
- Control of wax moth in the domestic market;
- An internal preliminary economic review of EDB, prepared from very limited data, estimated that 7,360,000 lbs. of EDB pesticides (5-4% of 1976 domestic production) are used annually. The breakdown of this use by use-pattern is presented in Table 1.

Table 1—Estimated current pesticidal use of EDB.

<table>
<thead>
<tr>
<th>Use:</th>
<th>Thousand pounds/yr</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tobacco</td>
<td>4,059</td>
</tr>
<tr>
<td>Vegetable</td>
<td>2,410</td>
</tr>
<tr>
<td>Peanuts</td>
<td>384</td>
</tr>
<tr>
<td>Cotton</td>
<td>240</td>
</tr>
<tr>
<td>Grain storage</td>
<td>526</td>
</tr>
<tr>
<td>Flour millings</td>
<td>385</td>
</tr>
<tr>
<td>Quarantine</td>
<td>40</td>
</tr>
<tr>
<td>Mountain pine bark beetles</td>
<td>17.5</td>
</tr>
<tr>
<td>Subterranean termite control</td>
<td>5.5</td>
</tr>
</tbody>
</table>

The major domestic producers of EDB, as a pesticide, are Great Lakes Chemical Corp.; Velsicol Chemical Corp. (formerly Michigan Chemical Corp.) and, up to August 1977, Dow Chemical. The bulk of EDB domestic production is used as a gasline additive and a minor amount is used in industrial and pharmaceutical processes.

3. Tolerances. There are no tolerances for EDB per se in or on raw agricultural commodities because it was concluded on the basis of data originally submitted by petitioners, that no EDB residues would result. This was based on the idea that EDB compounds released bromide ions which were fixed in soils and subsequently taken up by plants as inorganic bromide, and also that residue analyses, then available for organic bromides in crops grown in treated soil, were negative. The analytical method employed only identified bromide ions and did not measure any organic bromide which was extracted by the procedure and not lost in cleanup steps. Consequently, tolerances or exemption from tolerance for use of EDB in or on raw agricultural commodities resulting from its use either as a pre-harvest soil fumigant or as a post-harvest commodity fumigant were established in 40 CFR 180. Food additive tolerances for inorganic bromides resulting from use of EDB are listed in 21 CFR 191 and 193. The Food and Drug Administration (FDA) and EPA are currently reviewing standards for tolerance setting for organic bromide compounds and inorganic bromide residues.

Tolerances for residues of inorganic bromides (calculated as Br) in or on raw agricultural commodities grown in soil treated with EDB were established in 40 CFR 180.126 as:

- On Aug. 5, 1977. Dow announced by letter that they were withdrawing from the EDB pesticide market (Dow, 1977).
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75 ppm in or on broccoli, carrots, melons, parsnips, potatoes; 50 ppm in or on eggplant, okra, summer squash, and sweet corn forage, sweet potatoes, tomatoes; 40 ppm in or on pineapple; 33 ppm in or on cucumbers, lettuce, peppers; 25 ppm in or on cottonseed, peanuts (180-1260 restricts use of treated peanut hay and hogs fed it for meat and dairy animals); 10 ppm in or on asparagus, cauliflower; 5 ppm in or on lima beans, strawberries.

To establish tolerances for residues of inorganic bromides in or on raw agricultural commodities resulting from post-harvest fumigation with EDB is established in 40 CFR 180.146 as follows. 60 ppm (calculated as Br) in or on barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat; 25 ppm (calculated as total combined bromine from both inorganic and organic compounds) in or on cherries and plums (fresh prunes) in accordance with specified quarantine programs.

10 ppm (calculated as Br) in or on string beans, bitter melons (Momordica charantia), cantaloupes, Chinese long beans, bananas, citrus fruits, cucumbers, guavas, litchi fruit, lettuce, longan fruit, mangoes, papayas, bell peppers (green), okra, and squash squashes in accordance with specified quarantine programs.

An exemption from tolerance for residues of organic bromides resulting from post-harvest fumigation with EDB in established in 40 CFR 180.146 as follows. 40 ppm (calculated as Br) in or on barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

A food additive tolerance for Inorganic bromides residues from the use of EDB in or on grain-mill machinery, is established in mills, for residues from all sources, as 125 ppm by 21 CFR 123.225 (calculated as Br).

A food additive tolerance for inorganic bromides residues from the use of EDB in or on grain-mill machinery, is established in mills, for residues from all sources, as 125 ppm by 21 CFR 123.225 (calculated as Br).

Food additive tolerances for Inorganic bromides resulting from all organic bromides used as a soil fumigant (nematicide), raw agricultural commodities: wheat, barley, oats, corn, (including popcorn and sweet corn) and grain sorghum (milo).

Food additive tolerances for Inorganic bromides resulting from all organic bromides used as a soil fumigant (nematicide), raw agricultural commodities: wheat, barley, oats, corn, (including popcorn and sweet corn) and grain sorghum (milo).

8/30/56—Dow Chemical Co. amended petition by dropping tolerance for melons, peanuts (30 ppm), pepper (75 ppm), and turnips (75 ppm).

9/22/55—Pesticide Petition submitted by Dow Chemical Co. to FDA requesting establishment of tolerance for inorganic bromide residues resulting from soil application of EDB found in or on the following commodities: okra (30 ppm), peppers (30 ppm), eggplant (50 ppm) summer squash (50 ppm), tomatoes (50 ppm), broccoli (75 ppm), melons (75 ppm), Irish potatoes (75 ppm), cabbage (100 ppm), green beans (100 ppm), and celery (200 ppm).

9/2/55—Pesticide Petition submitted by Dow Chemical Co. to FDA requesting establishment of tolerances of 10 ppm for inorganic bromide residue resulting from fumigation of the following commodities found in or on cantaloupe and litchi nuts.

1/7/57—USDA petitioned FDA to establish a tolerance of 20 ppm for total bromide residues resulting from fumigation with EDB in or on plums treated as part of a quarantine program for fruit fly infested fruit imported from Mexico.

3/1/57—Federal Register notice published proposing establishment of tolerances for Inorganic bromide residues resulting from soil application of EDB on the following raw agricultural commodities: cucumber (30 ppm), lettuce (30 ppm), peppers (30 ppm), eggplant (50 ppm), summer squash (50 ppm), tomatoes (50 ppm), broccoli (75 ppm), melons (75 ppm), Irish potatoes (75 ppm), cabbage (100 ppm), green beans (100 ppm), and celery (200 ppm).

4/5/57—Federal Register notice published proposing establishment of a tolerance of 20 ppm for Inorganic bromide residues resulting from fumigation with EDB found in or on plums treated with EDB, as part of a quarantine program.

6/14/57—Dow Chemical Co. amended petition to exclude tolerance requests for Inorganic bromide residues on the following commodities: okra, potatoes, cabbage, green beans and celery.

5/28/57—Federal Register notice published establishing the following tolerances for Inorganic bromide residues resulting from post-harvest application of EDB: 10 ppm found in or on cantaloupe and litchi nuts.

6/18/57—Federal Register notice published establishing tolerances for Inorganic bromide residues resulting from soil application of EDB in or on the following commodities: cucumbers (30 ppm), lettuce (30 ppm), peppers (30 ppm), eggplant (50 ppm), summer squash (50 ppm), tomatoes (50 ppm), broccoli (75 ppm), and melons (75 ppm).

1/13/58—Pesticide Petition submitted by Dow Chemical Co. to FDA requesting establishment of tolerances for Inorganic bromide residues resulting from soil application of EDB found in or on the following raw agricultural commodities: okra (50 ppm) and pineapples (40 ppm).

2/15/58—Federal Register notice published proposing establishment of tolerances for Inorganic bromide residues resulting from fumigation with EDB found in or on the following raw agricultural commodities: okra (50 ppm) and pineapples (40 ppm).

2/28/58—Federal Register notice published proposing establishment of a tolerance of 10 ppm for Inorganic bromide residues, resulting from fumigation with EDB found in or on cantaloupe and litchi nuts.

5/2/58—Federal Register notice published establishing tolerance of 10 ppm for Inorganic bromide residues, resulting from fumigation with EDB found in or on cantaloupe and litchi nuts.

6/7/58—Federal Register notice published establishing tolerances for Inorganic bromide residues for the following commodities: okra (50 ppm) and pineapples (40 ppm).

8/5/58—Pesticide Petition submitted by Dow Chemical Co. to FDA requesting establishment of tolerances for Inorganic bromide residues resulting from fumigation with EDB found in or on cantaloupe and litchi nuts.

7/4/58—Federal Register notice published proposing establishment of a tolerance for Inorganic bromide residues of 75 ppm found in or on onions.

10/4/58—Federal Register notice published establishing the following tolerances for Inorganic bromide residues, resulting from soil application of EDB in or on the following raw agricultural commodities: cucumbers (30 ppm), lettuce (30 ppm), tomatoes (50 ppm), eggplant (50 ppm), summer squash (50 ppm), broccoli (75 ppm), melons (75 ppm), Irish potatoes (75 ppm), cabbage (100 ppm), green beans (100 ppm), and celery (200 ppm).
residues, resulting from soil application of EDB products used to treat soil for cultivation of peanut crops in or on Mexican oranges treated with EDB.

4/30/69—Joint USDA-HEW statement for implementation of NAS/HBC recommendations published in the Federal Register. Plan included discontinuation by 12/31/67 of registrations involving residues on food or feed for which a tolerance or exemption was set desirable, since, as experience bore out, residues might be present at levels below the current method of analysis. No data were available establishing a tolerance of 10 ppm for inorganic bromide residues, resulting from soil application of EDB, found in or on longan fruits.

5/28/65—Pesticide Petition submitted by USDA to FDA requesting establishment of a tolerance of 10 ppm for inorganic bromide residues in or on Mexican oranges treated with EDB.

5/29/73—Pesticide Petition denied by FDA as a result of insufficient toxicological data to safely support the conclusion that the registration could be continued without undue hazard to the public health.

6/29/68—Due to lack of toxicity data, USDA withdrew petition for inorganic bromide residue tolerance increase on Mexican oranges.

1/30/69—PR Notice (68-5) published extending EDB "no residue" and "zero tolerance" registrations until 1/1/69 for uses as a feed for dairy animals, or for animals used for breeding, e.g., for milk production; for animal feed; for animals fed directly as a feed for dairy animals, or for animals used for breeding, e.g., for milk production. Residues were found in soil at two citrus fumigation centers—up to 50 ppm (mg/kg) several weeks after fumigation. Elevated air levels of EDB were found at the two citrus fumigation centers—up to 56 micrograms per cubic meter downwind of the centers, and up to 63138 nanograms per cubic meter in the breathing zones of persons in the buildings of these centers. The limit of detection was 10 parts per billion (ppb).

9/4/73 letter from Dr. Weisburger of NCI stated that EDB produces "a high incidence of squamous cell carcinoma of the stomach" when administered at high doses during chronic feeding studies conducted rats and mice.

7/14/75—The Environmental Defense Fund petitioned EPA to investigate the carcinogenic potential of EDB pesticides and to either suspend or cancel their registrations. This request was reiterated on Jan. 31, 1976, and again on September 30, 1976. The Agency responded to these requests in March and October 1976 indicating that EDB pesticide registrations were being reviewed under the EPA Superfund action.

6/25/77—The Environmental Defense Fund amended their earlier petition to include that EPA act under authority granted by the Clean Air Act as well as under TTFRA.

C. ENVIRONMENTAL OCCURRENCE

1. Residues in Soils and Water. EDB does not degrade appreciably over a two week period (McLennan, 1978) but is converted aliphatically to the corresponding bromide in about two months (Castro and Schmitt, 1962). The analytical methodology in these studies was generally designed to measure either total bromides or inorganic bromide and was not sensitive to EDB levels below one ppm. The second category includes studies which were designed to measure EDB residues per se and which were usually carried out for periods of a week or more following soil application. The EDB residue is based on studies which fall into two categories (Castro and Schmitt, 1962; Alumot and Chalutz, 1972; Bussel and Belser, 1968). Thomson, et al. (1971) stated that EDB is "physically and/or biologically degradable." Levels of EDB, in the nanogram per gram range (one-billionth of a gram per gram), were found in soil. Two citrus fumigation centers in Florida. EDB levels in dustfall at these centers ranged from 6 to 300 pgomograms (one-trilhionth of a gram) per square centimeter of surface area. Residues of EDB were found in either soil or dustfall at bulk gasoline handling facilities in New Jersey and Oklahoma. The minimum detectable quantity was 10-15 nanograms per sample (Goling and Spigarelli, 1976).

2. Residues in Air. In the Goling and Spigarelli study (1976), baseline air levels of EDB for rural/suburban areas and metropolitan areas were found to be 0.05-0.10 and 0.5-2.0 micrograms per cubic meter, respectively. Elevated air levels of EDB were found at the two citrus fumigation centers—up to 66 micrograms per cubic meter downwind of the centers, and up to 6.53138 nanograms per cubic meter in the breathing zones of persons in the buildings of these centers. The limit of detection was 10 parts per billion (ppb).

Atmospheric residues of EDB have recently been measured, giving an operational soil fumigation with this compound in three California locations. Table 2 presents the data from this study (White and McAllister, 1971).

3. Residues in Food and Feed. The literature on EDB residues in food and feed generally fall into two categories. The first category includes studies which were designed primarily to document the expected rapid loss of EDB residues, following fumigation, over short periods of less than one week.

**Table 2.** Atmospheric residues during EDB soil fumigation by injection. Measurement 12" above ground and in applicator's breathing zone. (Adapted from White and McAllister, 1977).

<table>
<thead>
<tr>
<th>Application rate (pounds per acre)</th>
<th>Duration of sampling (hours)</th>
<th>Average concentration (milligrams per cubic meter)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.0</td>
<td>2.5</td>
<td>0.355</td>
</tr>
<tr>
<td>0.4</td>
<td>2.0</td>
<td>0.075</td>
</tr>
<tr>
<td>0.2</td>
<td>2.0</td>
<td>ND(1)</td>
</tr>
</tbody>
</table>

(1) Assumptions. 70 kg man, breathing 1.4 m³/hr/8 hr day, retains all inhaled EDB.

(2) Broadcast treatment, closed system, airflow inversion achieved by mid afternoon.

(3) Broadcast treatment, polydrum system, applicator left home while chisels were out of ground.

(4) Row treatment, polydrum system, sampling pump malfunctioned in treated field, no sample collected.

(5) Not detected.

The analytical methodology in these studies was generally designed to measure either total bromides or inorganic bromide and was not sensitive to EDB levels below one ppm. The second category includes studies which were designed to measure EDB residues per se and which were usually carried out for periods of a week or more following soil application. The EDB residue is based on studies which fall into two categories. Thomson, et al. (1971) have shown that no detectable residues of organic EDB are found in plants grown in soil treated with EDB. Brown, et al. (1968) and Beckman, et al. (1967) showed large increases of inorganic bromine ion in crops grown in soils fumigated with EDB and other organic bromides.
EBD from the pre-plant fumigation of soils for green beans, snap beans, lime beans, cucumbers, bell peppers, tomatoes, peas, eggplants, sweet corn, watermelon, okra, peanuts, soybeans, potatoes, cabbage, and onions. Soybean hay showed apparent residues of 0.002 ppm at 0.02 ppm (Litton Bio- modics, Coggiola, and Huelin, 1964). Published data obtained by Litten

EDI and residues reported following fumigation of powdered rubber or packing materials. In wheat ranging from 3.26 ppm at one week post-fumigation. EDB residues in flour from wheat, Berck (1974), using a fumigation rate of 0.67 l/metric ton. With a method sensitive to 0.01 ppm, these authors reported residues in this flour of 0.002-0.04 ppm while whole meal bread, baked from flour containing about 25% shorts and bran contained residues of 0.002 ppm. The higher values were found in the wheat that had been aerated post-fumigation. EDB residues in this flour were found in wheat aerated for 10-12 weeks.

In a study related to development of analytical methods, McMahon (1971) analyzed wheat and bread samples treated experimentally with EDB. Both single and combined samples were assayed gravimetrically "*" section 162.3(b)(b) of the Code of Federal Regulations, defines the phrase "*" as "used as a pesticide or in the manufacture of a pesticide*". For the purposes of this discussion, we shall assume that the term oncogenic as "the property of a substance or a mixture of substances to produce or induce benign or malignant tumor formation in living animals*". The NCI study has been examined by the Workgroup Group and found to present evidence which meets the above criterion.

L. ONCOGENICITY.

I. SUMMARY OF EVIDENCE TO SUPPORT REPUTABLE PRESCRIPTION

A. CHRONIC EFFECTS

1. Oncogenicity. 40 CFR 163.11(a)(3)(II)(A) provides that a pesticide "*" in the manufacture of a pesticide*". For the purposes of this discussion, we shall assume that the term oncogenic as "the property of a substance or a mixture of substances to produce or induce benign or malignant tumor formation in living animals*". The NCI study has been examined by the Workgroup Group and found to present evidence which meets the above criterion.

L. ONCOGENICITY.

I. SUMMARY OF EVIDENCE TO SUPPORT REPUTABLE PRESCRIPTION

A. CHRONIC EFFECTS

1. Oncogenicity. 40 CFR 163.11(a)(3)(II)(A) provides that a pesticide "*" in the manufacture of a pesticide*". For the purposes of this discussion, we shall assume that the term oncogenic as "the property of a substance or a mixture of substances to produce or induce benign or malignant tumor formation in living animals*". The NCI study has been examined by the Workgroup Group and found to present evidence which meets the above criterion.
mediated assay in mice. In this test a single high dose of 500 mg/kg was administered intramuscularly to the mice and it was stated that there was an increase in the peritoneal cell count. The mutation frequency was 6.28 loci/10^6 cells in the treated animals and was 0.77 loci/10^6 cells in the controls.

Because of the high mutation frequency relative to that of controls, the test is judged to be positive with the reservation that the activity was reported only for a single high dose, and there were no data presented to indicate a dose-response. As it was reported that EDB be active in vitro in a qualitative test, there is no evidence that mammalian metabolism in any way affects the mutagenicity of EDB for S. typhimurium.

McCann, et al, 1974. EDB, administered as a liquid directly into molten agar containing 48 strains of bacteria, has been shown to be "weakly active" in inducing reversions to histidine prototrophy in Salmonella typhimurium TA1535 and TA100. The activity was linearly dose related and showed a marked 2-12 fold increase in mutagens in mice when EDB is volatilized directly into molten agar. The activity was carried out without a mammalian metabolic activation system. There were 0.029 revertants per gram of microorganism incubated into molten agar, but a consistently high sensitivity to the resulting genetic end effects, i.e., mutations of the mutagenic potential of EDB. The following discussion is based in part on a review performed for EPA's Office of Health and Environmental Assessment Group (CA). of the data compilation tables and a review of the literature. The data has been organized as to the property of a substance or mixture of substances to induce changes in the genetic complement of either somatic or germinal tissue in subsequent generations.

Numerous studies report on various aspects of the mutagenic potential of EDB and a supplemental report has been received (8/1/77). The final tabulation of pathology data was not completed at time of this draft table (E.W.).

The following discussion is based in part on a review performed for EPA's Office of Health and Environmental Assessment Group (CA). of the data compilation tables and a review of the literature. The data has been organized as to the property of a substance or mixture of substances to induce changes in the genetic complement of either somatic or germinal tissue in subsequent generations.

Numerous studies report on various aspects of the mutagenic potential of EDB and a supplemental report has been received (8/1/77). The final tabulation of pathology data was not completed at time of this draft table (E.W.).

Table 3: Incidence of stomach tumors in rats and mice induced by intubation of EDB

<table>
<thead>
<tr>
<th>Species and sex</th>
<th>High dose</th>
<th>Low dose</th>
<th>Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rat, male</td>
<td>30/31 (96.8)</td>
<td>4/13 (27.4)</td>
<td>1/10 (10.0)</td>
</tr>
<tr>
<td>Rat, female</td>
<td>35/40 (86.8)</td>
<td>5/9 (53.8)</td>
<td>0/20 (0)</td>
</tr>
<tr>
<td>Mouse, male</td>
<td>30/30 (88.8)</td>
<td>4/5 (80.0)</td>
<td>1/5 (20.0)</td>
</tr>
<tr>
<td>Mouse, female</td>
<td>40/40 (89.5)</td>
<td>5/5 (100.0)</td>
<td>0/5 (0)</td>
</tr>
</tbody>
</table>

* Upper figure — number with tumor; lower figure — number examined; x = percent with tumors.

Mediation of the claimed effects are categorized as negative.

The International Agency for Research on Cancer (IARC) included an evaluation of the carcinogenic risk to man for EDB in its recently issued monograph (IARC, 1977). The comment of the IARC Working Group on the NCI study was as follows: "[EDB] is carcinogenic in mice and rats after its oral administration, the only route tested; it produced squamous-cell carcinomas of the fore-stomach.

The Carcinogenic Assessment Group (CAAG) of EPA has provided a preliminary statement regarding the results of the NCI/Hazelton study (NCI, 1977). The CAAG concluded with the following comment: "In the NCI investigation (Hazelton Laboratories, Contractor), rats and mice were exposed to EDB for two years by intubation. A final report from NCI is not available to the public.

***** The property of a substance or mixture of substances to induce changes in the genetic complement of either somatic or germinal tissue in subsequent generations.

Numerous studies report on various aspects of the mutagenic potential of EDB and a supplemental report has been received (8/1/77). The final tabulation of pathology data was not completed at time of this draft table (E.W.). Actual numbers of specific tumors types may differ from these numbers.

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observed vs. 0.82 per 10<sup>6</sup> survivors in untreated controls.


Alper and Ames, 1976. EDB has been shown to be inactive in inducing deletions in the gal-1 gene, a region of Salmonella typhimurium LT-2.

Bossmann et al., 1972. EDB, administered intraperitoneally, was reported to be inactive in inducing reversions to leucine prototrophy in Serratia marcescens 2A1 in the host-mediated assay in mice. The compound was also reported to be inactive in D. melanogaster in a qualitative test in vitro. The data presented are insufficient for evaluating the effect of EDB in the host-mediated assay with S. marcescens, since results at only a single dose were reported.

Brem et al., 1974b. EDB, tested at a single dose of 10 microliters was reported to be inactive in the Salmonella typhimurium TA 1538 strain using the filter paper disc technique. Because data for only a single dose were reported and because of the inaccuracies inherent in determining the effective dose by the filter paper technique, this result is insufficient for evaluating the mutagenicity of EDB in strain TA1538. However, such activity in strain TA1538 might be predicted since the strain is designed to detect frame-shift mutations and EDB is more likely to cause base-substitution mutations.

(2) Chromosomal damage studies. Two types of tests related to chromosomal effects have been reported as negative. These are the dominant- lethal (DL) test in mice, and in vitro cytogenetic tests. The DL test is an indicative assay for some examples. The data reported are insufficient for evaluating the effect of the chemical since results at only a single dose (10 microliters per plate) are presented.

c. Interpretation of Mutagenicity studies. The NIH32 criteria document concludes that EDB is potentially a point (gene) mutagen. As a result, the mutagen project (EDB) has been established in a wide spectrum of mutational test systems for point (gene) mutations typical of the activity of an alkylating agent which forms covalent bonds with DNA (NISCH, 1977).

In a memorandum dated 9-10-77, Dr. R. Petrella stated that there is ample evidence to fulfill both the most detailed criteria for EDB as a mutagen as well as the scientific criteria for interpreting the genotoxicity of EDB. The NIH study group on mutagenicity. This evidence shows EDB to be positive in both prokaryotic (microbial) and eukaryotic (higher forms including mammals) for point (gene) mutational effects, with and without mammalian metabolic activation.

3. Observed Effects—Reproductive Effects. 40 CFR 162.11.a) (3) (ii) (3) provides that a " * * * rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s) or degradation product(s) * produce any other chronic or delayed toxic effect in test animals at any dosage up to a level, such as the test conducted, which is substantially higher than that to which humans can reasonably be anticipated to be exposed and into account ample margins of safety.

The Working Group has examined the following reproductive effects studies and finds that, because sufficient data do not exist for determination of a "no-observable-effect" level for the reproductive effects of EDB in oral, inhalation or dermal routes of exposure, acceptable levels of exposure may not be toxicologically described by any of these routes following the pesticide use of EDB. Furthermore the Working Group believes that the difference between the levels of EDB used and the levels of EDB exposed and at which reproductive effects were evidenced (average dose of 2 mg/kg/day, see table 4), 4 mg/kg/day, see table 2, and up to 0.425 mg/kg/day, see table 3, respectively, (does not constitute a rebuttable presumption of safety). Therefore a rebuttable presumption exists under this criterion for all pesticide products containing EDB.

Studies on bulls, cows, sheep, and rodents establish that EDB may adversely affect mammalian development by interfering with the production of male gametes and with the development of embryos. These studies are summarized below. Following these summarizations, data on levels to which humans can be exposed are presented below.

Amir and coworkers described the effects of EDB on spermatogenesis of mice. Although EDB is administered to bull calves (starting at 4 days of age) or adult bulls at an average dose of 2 mg/kg/day for periods up to 24 months. The general protocol involved the administration of 4.4 mg/kg dose on alternate days by capsule, with variation from this protocol for the calves and cattle. For example, at various periods following the beginning of treatment, and after age 14-16 months, for calves, sperm were examined either in the testes or ejaculate.

For example, Amir (1973) reported that the testis of a bull examined after receiving seven doses over 12 days contained 50 percent sperm with misshapen heads in the testis and 10 percent in the caput epididymis. The sperm of another bull examined after 10 doses over a 21 day period had approximately 90 percent misshapen heads in both the testis and caput epididymis. No data were presented on the occurrence of sperm abnormalities in comparable untreated animals.

### Table 4: Summary of reproductive effects of EDB in bulls

<table>
<thead>
<tr>
<th>Route of exposure</th>
<th>Sex and age</th>
<th>EDB concentration and duration</th>
<th>Observed effects</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oral: milk 3 mo.</td>
<td>12 mo.</td>
<td>4 mg/kg/day on alternate days</td>
<td>No effect on growth or libido, abnormal spermatogenesis, decreased sperm density and motility, recovery by 3.5 mg, in 2 dogs after discontinuation of treatment.</td>
<td>Amir and Volcani, 1965, 1967</td>
</tr>
<tr>
<td>Oral: capsule</td>
<td>12 mo.</td>
<td>4 mg/kg/day on alternate days</td>
<td>Same as above, abnormally motile sperm, normal growth and development.</td>
<td>Amir and Volcani, 1967</td>
</tr>
<tr>
<td>Testicular injection of 4 bulls</td>
<td>12 mo.</td>
<td>1 bull injected 1-120 mg doses; 1 bull each oral dose 2 g. 250 mg, 500 mg. 500 mg</td>
<td>Reduced sperm production, reduced sperm density and motility in 3 animals.</td>
<td>Amir, 1977</td>
</tr>
<tr>
<td>Oral capsule</td>
<td>12 mo.</td>
<td>4 mg/kg/day on alternate days</td>
<td>Abnormal spermatogenesis, testis, epididymis, ductus deferens, in young and adult males.</td>
<td>Amir and Ben-David, 1973</td>
</tr>
<tr>
<td>Injection olive oil in 2 bulls</td>
<td>11 to 120 mg each 4 times</td>
<td>Same as above, but no effect on sperm motility.</td>
<td>Do.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Summary of reproductive effects of EDB in bulls</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Amir and Volcani, 1965.*
In a similar study on sperm morphology, Amir and Ben-David (1973) examined sperm on the day following the last EDB dose (4 mg/kg on alternate days for 20 days) in four young bulls. Sperm morphology in three of the bulls was similar to the control value of 4 percent and 9 percent misshapen heads in the caput and cauda epididymis, respectively. Seventy percent of the fourth animal's sperm were misshapen in the caput epididymus and 15 percent were misshapen in the cauda epididymis. Three older bulls contained 100 percent misshapen sperm in their ejaculates 6-9 days after beginning treatment and, in 9-13 days most of the sperm cells were degenerating. No control values were presented for the older bulls. The dry weight of the sperm in the caput epididymus showed a two-fold reduction from 3340 ± 107 micrograms/10^8 sperm before treatment to 1494 ± 137 micrograms/10^8 sperm after treatment. Sperm in the cauda epididymus showed no change in dry weight while a slight reduction from 1854 ± 126 micrograms/10^8 sperm to 1410 ± 60 micrograms/10^8 sperm was apparent in the ejaculates.

In another sperm motility study, Amir (1975) reported marked decreases in sperm motility, Amir and Ben-David (1973) reported marked decreases in motility and increased frequency of structural defects in bull sperm following treatment (4 mg/kg in 10 doses on alternate days). The ejaculates of three bulls contained 42 percent, 50 percent and 65 percent motile sperm before exposure to EDB while approximately 30 days after treatment ejaculates from these animals contained 5 percent, 4 percent, and 3 percent motile sperm, respectively. Corresponding changes in sperm morphology were also reported: before treatment ejaculates contained 4-17 percent abnormal sperm, while approximately 30 days after treatment ejaculates from these animals contained 80-100 percent abnormal sperm (table 5).

### Table 4—Summary of reproductive effects of EDB in bulls

<table>
<thead>
<tr>
<th>Route of exposure</th>
<th>Sex and age</th>
<th>EDB concentration and duration</th>
<th>Observed effects</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oral EDB in mash.</td>
<td>3 bull calves—age unstated</td>
<td>50 to 80 pm EDB—3 mo.</td>
<td>No effect on semen, no increase Br. Content of testes</td>
<td>Bondi and Alumot, 1987</td>
</tr>
<tr>
<td>Oral KBr in solution in mash.</td>
<td>2 bulls—age unstated</td>
<td>2 mg/kg—duration unstated</td>
<td>No effect on fructose or citric acid in seminal plasma between treated or control animals</td>
<td>Do.</td>
</tr>
<tr>
<td>Oral capsule.</td>
<td>15 to 24 mo.</td>
<td>4 mg/kg on alternate old.</td>
<td>Abnormalities reached maximum 2 to 10 d posttreatment, effect reversed 6 to 5 weeks posttreatment</td>
<td>Amir, 1973</td>
</tr>
<tr>
<td>Do.</td>
<td>18 mo.</td>
<td>4 mg/kg/d—duration unstated</td>
<td>Abnormalities reached maximum within one week posttreatment, reversed incompletely at 16 weeks posttreatment</td>
<td>Do.</td>
</tr>
<tr>
<td>Do.</td>
<td>3 bulls—4 to 5 yr old.</td>
<td></td>
<td></td>
<td>Do.</td>
</tr>
<tr>
<td>Do.</td>
<td>3 bulls—45 to 55 yr old.</td>
<td></td>
<td></td>
<td>Do.</td>
</tr>
</tbody>
</table>

### Table 5.—Sperm characteristics and motility in bulls treated orally with 10 doses of EDB (4 mg/kg body weight/dose) on alternate days (from Amir and Ben-David, 1973)

<table>
<thead>
<tr>
<th>Days after start of treatment</th>
<th>Number of sperm collections</th>
<th>Percent abnormal spermatozoa (range)</th>
<th>Percent abnormalities</th>
<th>EDB</th>
<th>Sperm motility (percent motile cells) mean ± SE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bull No. 96:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pretreatment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9 to 14</td>
<td>2</td>
<td>14-10</td>
<td>69</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>15 to 21</td>
<td>3</td>
<td>21-20</td>
<td>76</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>22 to 28</td>
<td>4</td>
<td>28-27</td>
<td>77</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>29 to 35</td>
<td>3</td>
<td>38-30</td>
<td>88</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>36 to 42</td>
<td>3</td>
<td>42-35</td>
<td>81</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>Bull No. 373:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pretreatment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 to 11</td>
<td>2</td>
<td>7-10</td>
<td>61</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>12 to 18</td>
<td>3</td>
<td>12-14</td>
<td>61</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>19 to 25</td>
<td>2</td>
<td>19-21</td>
<td>61</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>26 to 32</td>
<td>3</td>
<td>26-28</td>
<td>61</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>33 to 39</td>
<td>3</td>
<td>33-35</td>
<td>61</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Bull No. 879:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pretreatment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 to 11</td>
<td>2</td>
<td>5-17</td>
<td>81</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>12 to 18</td>
<td>3</td>
<td>12-14</td>
<td>81</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>19 to 25</td>
<td>2</td>
<td>19-21</td>
<td>81</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

### Table 6—Summary of reproductive effects of EDB in bulls

<table>
<thead>
<tr>
<th>Route of exposure</th>
<th>Sex and age</th>
<th>EDB concentration and duration</th>
<th>Observed effects</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oral EDB in mash.</td>
<td>3 bull calves—age unstated</td>
<td>50 to 80 pm EDB—3 mo.</td>
<td>No effect on semen, no increase Br. Content of testes</td>
<td>Bondi and Alumot, 1987</td>
</tr>
<tr>
<td>Oral KBr in solution in mash.</td>
<td>2 bulls—age unstated</td>
<td>2 mg/kg—duration unstated</td>
<td>No effect on fructose or citric acid in seminal plasma between treated or control animals</td>
<td>Do.</td>
</tr>
<tr>
<td>Oral capsule.</td>
<td>15 to 24 mo.</td>
<td>4 mg/kg on alternate old.</td>
<td>Abnormalities reached maximum 2 to 10 d posttreatment, effect reversed 6 to 5 weeks posttreatment</td>
<td>Amir, 1973</td>
</tr>
<tr>
<td>Do.</td>
<td>18 mo.</td>
<td>4 mg/kg/d—duration unstated</td>
<td>Abnormalities reached maximum within one week posttreatment, reversed incompletely at 16 weeks posttreatment</td>
<td>Do.</td>
</tr>
<tr>
<td>Do.</td>
<td>3 bulls—4 to 5 yr old.</td>
<td></td>
<td></td>
<td>Do.</td>
</tr>
<tr>
<td>Do.</td>
<td>3 bulls—45 to 55 yr old.</td>
<td></td>
<td></td>
<td>Do.</td>
</tr>
</tbody>
</table>
at higher levels, a reduction in body weight. Reduced egg production, reduced egg weight, and reduced fertility, a generalized reduction in the permeability of ovarian membranes and, in some cases, toxic effects observed on hens include decreased food consumption and weight gain, decreased implants/dam, decreased fetal weight, increased mortality, in male rats injects with five daily doses of 10 mg/kg body wt. Three Israeli reports indicated that high dietary doses of up to 30 percent of the LD have no effect comparable to those in bulls (Alumot, 1972; Amir and Ben-David, 1973; Bondi and Alumot, 1967). In a study by Short, et al. (1970) pregnant rats and mice were exposed to EDB at airborne concentrations of 32 ppm for 23 hr/day from day 6 through 15 of gestation. Two other groups of rats and mice were used; one was the untreated control and the other was a restricted diet group. This dose of EDB was toxic to both rats and mice as evidenced by decreased food consumption and decreased weight gain. Body weight changes were also seen with the restricted diet group. Indices of fetotoxicity were seen to both rats and mice from EDB exposure, e.g., increased implants per dam, decreased fetuses per dam, decreased fetal weight. Decreases in some of these same parameters were observed in the restricted diet group. Teratogenic effects were also seen and are discussed below under section IV.

### Table 6.—Sperm concentration and motility in ejaculates of bulls after oral treatment with EDB (adapted from Amir, 1972)

<table>
<thead>
<tr>
<th>Test animal(s)</th>
<th>Days after start of treatment</th>
<th>Number of ejaculates</th>
<th>Sperm concentration (X10^6/ml)</th>
<th>Motile sperm (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Five young bulls</td>
<td>0-16</td>
<td>34</td>
<td>805±58</td>
<td>48±6.4</td>
</tr>
<tr>
<td>Adult bull No. 240</td>
<td>17-35</td>
<td>37</td>
<td>708±51</td>
<td>6±4.5</td>
</tr>
<tr>
<td></td>
<td>36-59</td>
<td>10</td>
<td>810±57</td>
<td>44±5.3</td>
</tr>
<tr>
<td></td>
<td>5-10</td>
<td>5</td>
<td>1390±139</td>
<td>45±5.7</td>
</tr>
<tr>
<td></td>
<td>18-29</td>
<td>5</td>
<td>725±8</td>
<td>6±4.8</td>
</tr>
<tr>
<td>Adult bull No. 251</td>
<td>32-42</td>
<td>13</td>
<td>416±56</td>
<td>22±3.6</td>
</tr>
<tr>
<td></td>
<td>126-141</td>
<td>3</td>
<td>367±66</td>
<td>27±3.4</td>
</tr>
<tr>
<td></td>
<td>0-10</td>
<td>6</td>
<td>1320±11</td>
<td>7±4.1</td>
</tr>
<tr>
<td></td>
<td>17-27</td>
<td>3</td>
<td>677±100</td>
<td>17±4.1</td>
</tr>
<tr>
<td></td>
<td>22-33</td>
<td>5</td>
<td>6±4.3</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>162-172</td>
<td>2</td>
<td>360±50</td>
<td>12±3.5</td>
</tr>
</tbody>
</table>

Values are means ± standard error f the mean.

(2) Cows and Sheep. Limited data on cows, ewes, and rams were presented by Amir and Ben-David (1972), and Bondi and Alumot (1967). These investigators reported no apparent effect on fertility or reproduction in the female animals or in two adult rams. These data are summarized in table 7.

### Table 7.—Summary of reproductive effects of EDB in cows and sheep

<table>
<thead>
<tr>
<th>Route of exposure</th>
<th>Sex and age</th>
<th>EDB concentration and duration</th>
<th>Observed effects</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oral capsule</td>
<td>4 mature cows</td>
<td>1,200 mg/d (about 2 mg/kg/d)</td>
<td>No detrimental effect on fertility or reproduction.</td>
<td>Bondi and Alumot, 1967</td>
</tr>
<tr>
<td>Oral in milk for 1 week</td>
<td>6 female calves</td>
<td>3,200 mg/d through 3 lactation periods</td>
<td>Possible effect on fertility through gestation and parturition appeared</td>
<td>Do.</td>
</tr>
<tr>
<td>Oral capsule thereafter</td>
<td>6 female calves</td>
<td>1,200 mg/d through 3 lactation periods</td>
<td>No difference between controls and treated animals on fertility and reproduction.</td>
<td>Do.</td>
</tr>
<tr>
<td>Oral fumigated “concentrate”</td>
<td>3-6-mo-old ewes</td>
<td>About 200 ppm in concentrate during gestation unstated.</td>
<td>No apparent detrimental effect on reproductive ability.</td>
<td>Do.</td>
</tr>
<tr>
<td>Oral added to “concentrate”</td>
<td>do</td>
<td>do</td>
<td>do</td>
<td>Do.</td>
</tr>
<tr>
<td>Oral</td>
<td>2 adult rams</td>
<td>Unstated concentration, 4 mo.</td>
<td>Orinal administration of unstated concentration “for more than 4 mo, Amir and Ben-David up to their death from acute poisoning,” no change in spermatozoa.</td>
<td>Refer to above.</td>
</tr>
</tbody>
</table>

### Table 8.—Summary of reproductive effects of EDB in rats

<table>
<thead>
<tr>
<th>Route of exposure</th>
<th>Sex and age</th>
<th>EDB concentration and duration</th>
<th>Observed effects</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>IP</td>
<td>Male rats—number unspecified</td>
<td>10 mg/kg/d, 5 doses</td>
<td>Selectively damaged spermatogenic cells (spermatids) resulting in transient sterility as measured by average litter size of serially mated female rats, litter size reduced approximately 50 percent of controls at 3 wk posttreatment, to zero in 4th week, returned to normal at the 5th to 10th weeks.</td>
<td>Edwards et al., 1970</td>
</tr>
<tr>
<td>Oral &quot;dietary&quot;</td>
<td>Male and female rats—number unspecified</td>
<td>Daily doses up to 100 mg/kg body weight (25 to 30 ppm of LD) unspecified, 100, 200 ppm in mash for approximately 6 to 10 mg/kg in 16 weeks.</td>
<td>No effect on growth, sexual development, and reproductive activity.</td>
<td>Refer to above.</td>
</tr>
<tr>
<td>Oral fumigated mash</td>
<td>20 female rats-3 weeks old</td>
<td>No detrimental effect on fertility (based on unpublished data and personal communication).</td>
<td>Refer to above.</td>
<td></td>
</tr>
<tr>
<td>Inhilation</td>
<td>18 pregnant rats and 10 nonpregnant</td>
<td>32 ppm 23 h/d from day 6 to 15 of gestation.</td>
<td>Decreased food consumption and weight gain; decreased implants/dam, decreased fetuses/dam, decreased fetal weight, teratogenic effects-wavy ribs and hydrocephaly.</td>
<td>Refer to above.</td>
</tr>
</tbody>
</table>

(4) Chickens. Several studies have shown significant chronic effects on the reproductive system of chickens from ingestion of EDB. Toxic effects observed on hens include reduced egg production, reduced egg weight, reduced fertility, a generalized reduction in the permeability of ovarian membranes and, at higher levels, a reduction in body weight. The most sensitive of these parameters appears to be egg weight. Table 9 summarizes the results of these studies.

In 1967 and 1968, commercial poultrymen in the Southeastern U.S. encountered a decrease in egg production and egg size. A series of studies related to this problem showed that significant reductions in egg size and egg production were due to the level of EDB residues in the feed. Bierer and Vickers (1959) reported that grains fumigated with EDB and fed to laying hens, resulted in a gradual diminution in egg size and, in extreme cases, a complete cessation of egg production. The effects took eight weeks or longer to appear. Similar studies by Caygor and Laurent, (1960), and Puller and Morris, (1962 and 1963) confirmed the findings of Bierer and Vickers in greater detail.

From their series of experiments, Alumot and coworkers concluded that prolonged feeding of mash containing EDB significantly depressed growth of male chickens when fed without restrictions, but that the depression seemed to result from reduced food intake and not from the direct action of the compound. They also concluded that EDB had no effect on the onset of egg production in hens fed from birth, on sexual development in males and females, and on sperm characteristics or fertility in mature males. Statistically significant reductions in egg size and egg production were noted in hens fed EDB-fumigated mash.
Table 9.—Summary of reproductive effects of EDB in chickens

<table>
<thead>
<tr>
<th>Route of exposure</th>
<th>Sex and age</th>
<th>EDB concentration and duration</th>
<th>Observed effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oral fumigated grain and standard laying ration</td>
<td>Laying hens</td>
<td>5 to 100 ppm/5 weeks</td>
<td>Significant reduction in egg weight and numbers (in 10 to 12 weeks at 3 to 7.5 ppm), irreversible cessation egg laying within 45 to 56 d after EDB treatment. Reduced egg size.</td>
</tr>
<tr>
<td>Oral feeding</td>
<td>10X &quot;normal&quot; Dowfume cakes</td>
<td>12 weeks</td>
<td>Steady decline in egg size and number lasting 5 weeks after return to clean rations.</td>
</tr>
<tr>
<td>Oral feeding</td>
<td>10X &quot;normal&quot; Dowfume cakes</td>
<td>12 weeks</td>
<td>Highly significant reduction in egg size (dose related), slow increase following removal to untreated feed, reversible decrease in egg numbers.</td>
</tr>
<tr>
<td>Oral feeding</td>
<td>1.5 cc EDB (mixture of EDB, EDC, CT)</td>
<td>112 d</td>
<td>Egg size increases less than half of untreated controls.</td>
</tr>
<tr>
<td>Oral feeding</td>
<td>EDB, 0.5-2.0 mg/hen/d (mixture of EDB, EDC, CT)</td>
<td>8 weeks</td>
<td>No effect on egg production at or below 4.0 mg but significant effects at 8.0 mg. Significant effect on egg weight at 0.5 mg (lowest level tested), body weight depressed slightly at maximum dose, egg production and body weight normal after 12 weeks clean diet, egg weight below normal 6 to 10 mo on clean diet, change in ovarian structure of affected birds.</td>
</tr>
<tr>
<td>Oral feeding</td>
<td>Adult male</td>
<td>300 ppm 105 d</td>
<td>No observed effect on spermiogenic activity, spermatozoa count, or testes weight, comb weight declined.</td>
</tr>
<tr>
<td>Oral feeding</td>
<td>1-d-old female</td>
<td>40 ppm 2 X/3 d 3 mo</td>
<td>At 100 ppm weight gain reduced, at 300 ppm significant reduction in growth and feed intake, comb weight reduced but no effect on body weight, testes weight, and semen.</td>
</tr>
<tr>
<td>Oral feeding</td>
<td>1-yr-old laying hens</td>
<td>100 ppm 4 weeks</td>
<td>Significant effect on semen, fertilization rate, or hatchability of fertilized eggs. Significant decrease in egg weight, and egg production, normal onset of egg laying.</td>
</tr>
<tr>
<td>Oral feeding</td>
<td>Adult hens</td>
<td>10 mg/hen/d</td>
<td>Significant reduction in egg weight, and in fertilization rate, increase in egg breakage.</td>
</tr>
<tr>
<td>Oral feeding</td>
<td>Laying hens</td>
<td>100 ppm until egg weight had decreased to 1/2 of control</td>
<td>Treatment with various hormones had no effect on egg weight reduction, EDB did affect pituitary hormone production.</td>
</tr>
</tbody>
</table>

References:

Bondi et al., 1955.

Pfeiffer, 1945.

Hill, 1945.

Almot et al., 1968.


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III. SUMMARY OF EVIDENCE NOT SUFFICIENT TO SUPPORT AN RPAR

A. ACUTE TOXICITY CRITERIA

1. Humans. Data presently available are insufficient to determine whether the risk criteria in § 162.11(a) (3) (1) (A) are met or exceeded. Table 11 summarizes the published data of acute exposures to humans. Pesticide episode data (human exposure) presented below as well as exposure data presented in Tables 2 and 10, are also insufficient to determine whether these criteria are met or exceeded.

Data on acute toxicity of EDB to humans comes largely from observations of accidental exposures. The NIOSH criteria document (1977) cites four reports describing either accidental, industrial or experimental data. The pertinent observations from these reports are presented in Table 11.

In humans direct exposure to EDB causes irritation and injury to the skin and eyes. Exposure to the vapor has caused the development of respiratory tract inflammation along with anorexia and headache with recovery after discontinuance of exposure. Von Oettingen (1958) reported weakness and rapid pulse associated with EDB exposure as well as cardiac failure resulting in death. Olmstead (1960) reported an accidental ingestion of EDB caused liver necrosis and kidney tubular damage.

Table 11—Acute oral toxicity of EDB to various test organisms

<table>
<thead>
<tr>
<th>Species</th>
<th>Sex or size</th>
<th>LD50 (parts per million)</th>
<th>TLm*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rat</td>
<td>M</td>
<td>146</td>
<td></td>
</tr>
<tr>
<td>Rat</td>
<td>F</td>
<td>117</td>
<td></td>
</tr>
<tr>
<td>Mouse</td>
<td>F</td>
<td>420</td>
<td></td>
</tr>
<tr>
<td>Rabbit</td>
<td>F</td>
<td>90</td>
<td></td>
</tr>
<tr>
<td>Guinea pig</td>
<td>Mixed</td>
<td>110</td>
<td></td>
</tr>
<tr>
<td>D. lab.</td>
<td></td>
<td>79</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>25 (24 h)</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>15 (3 h)</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>15 (48 h)</td>
<td></td>
</tr>
<tr>
<td>Bluegill</td>
<td>Do.</td>
<td>2 (48 h)</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>25 (48 h)</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>15 (48 h)</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>15 (24 h)</td>
<td></td>
</tr>
<tr>
<td>Carp</td>
<td>Do.</td>
<td>25 (48 h)</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>15 (48 h)</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>15 (24 h)</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>15 (3 h)</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>15 (72 h)</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>15 (60 h)</td>
<td></td>
</tr>
<tr>
<td>American crayfish</td>
<td>Do.</td>
<td>15 (48 h)</td>
<td></td>
</tr>
<tr>
<td>Water flea (gyn.)</td>
<td>Do.</td>
<td>15 (48 h)</td>
<td></td>
</tr>
</tbody>
</table>
| *TLm = Median tolerance limit.
| **Soft water, 19.0 ppm hardness.
| ***Hard water, 71.1 ppm hardness.

In a series of experiments, Rowe et al. (1952) investigated the acute toxicity by oral, dermal, eye contact, and inhalation routes in several laboratory animals. Their findings of acute oral toxicity are summarized in Table 12 and, by the inhalation route, in Table 13. Their conclusions were that EDB caused obvious pain and reversible injury to the rabbit eye and, when confined against the rabbit skin, caused blistering and chemical burns. Rats and guinea pigs subjected to a single inhalation exposure at concentrations above the 50% mortality level showed CNS depression. Death from respiratory or cardiac failure generally occurred within 24 hours. Death in the same species exposed at concentrations below the 50% mortality level was usually delayed up to 12 days after exposure and was due mostly to pneumonia.

In other studies, Dow scientists demonstrated that potentiation occurs in albino rats after ingestion of mixtures containing EDB, carbon tetrachloride and ethylene dichloride but not after inhalation of these same mixtures. The most frequent symptom reported in these episodes was related to dermal contact and included erythema, dermatitis, blistering and chemical burns. Wheezing, chest pain and death were also reported.

2. Animals. The Working Group has not assessed whether the (acute) risk criteria, in § 162.11(a) (3) (1) (A) or (3), to domestic animals, wildlife and aquatic species are met or exceeded. There do not appear to be sufficient data on this aspect and furthermore there appears to be little opportunity for EDB exposure to wildlife or aquatic organisms.

Data on the acute oral toxicity of EDB to various species of test animals is summarized in Table 12.
The NIOSH criteria document (1977) suggests that first aid and remedial procedures are available; therefore the criteria in 163.11(a) (3) (iii) are not met or exceeded.

C. LACK OF EMERGENCY TREATMENT CRITERIA

The Agency lacks sufficient accurate data on levels of EDB to which humans may be exposed. There is need for more accurate exposure data from EDB residues in foods and feeds, and for data on acute or chronic inhalation and dermal exposures during soil, commodity, and crop fumigation. Such data is needed for the Agency to better assess the risks associated with these potential routes of exposure to EDB.

EDB PART VI BIBLIOGRAPHY


Short, et al (1976) suggest that teratogenic effects of EDB exposure. Criteria is met or exceeded. Externatymological and tissue or organ pathology described in these reports generally is similar to that detailed more completely in the human data summarized on the preceding pages.

B. CHRONIC TOXICITY CRITERIA

1. Population Reduction of Nontarget or Endangered Species. The Working Group is not aware of any chronic toxicity data which may suggest that the criteria of § 162.11(a) (3) (ii) (C), relative to population reduction in nontarget organisms or endangered species, would be met or exceeded.

2. Teratogenicity. Under the criteria for other chronic or delayed toxicity effects in § 162.11(a) (4) (ii) (B), the data presented by Short, et al (1976) suggest that teratogenic effects may occur in both rats and mice. However the Working Group believes that the findings of this study are not sufficient to support an RP3R on teratogenic effects and that additional information on these effects is needed.

In this study, Short and coworkers exposed pregnant rats and mice to EDB at airborne concentrations of 25 ppm for 23 hours per day from day 6 through 16 of gestation. Two other groups of rats and mice were used; one was the untreated control and the other was a restricted diet group. This dose of EDB appeared to be toxic to both rats and mice as evidenced by decreased food consumption and decreased weight gain. Body weight changes were also seen with the restricted diet group. Indices of fetotoxicity were seen for both EDB-exposed and control groups. Decreased implantation rate, decreased fetuses per dam, decreased fetal weight. Decreases in some of these same parameters were observed in the restricted diet group.

In the rat, the only teratogenic effect attributable to EDB treatment was wavy ribs. This effect was not seen in the restricted diet or control groups, and are seldom observed in rats. Wavy ribs may also an indication that, if the dose is increased, more teratogenic effects may be observed. Any increase in fourth ventricle hydrocephaly but the significance was less than 0.10. Incidence of 14/16 rats seen in all groups was within normal values for rats. In mice teratogenic effects hydrocephaly occurred in both the EDB treated and food groups. When compared to untreated controls, EDB treated mice had an increased incidence of delayed and incomplete ossification. When the EDB mice and restricted diet mice are compared in this regard, a Fischer's Exact Test shows that these incidences are not statistically different (e.g., worst case p=0.164). Thus, delayed ossification may be due to decreased food intake.

Only one dose level was used and since this dose caused toxic effects in both, pregnant rats and mice, little useful regulatory information can be obtained from this study.

Gasser and Frisch (1929), guinea pigs, multiple inhalation exposures; Kistler and Luckhardt (1929), dogs, single intravenous, inhalation and oral exposures; Merchbach (1929), dogs, single inhalation exposures.

Aman, et al (1940), guinea pigs and rats, multiple oral (gavage) exposures. External symptomatology and tissue or organ pathology described in these reports generally is similar to that detailed more completely in the human data summarized on the preceding pages.

C. HUMAN EXPOSURE DATA

The Agency lacks sufficient accurate data on levels of EDB to which humans may be exposed. There is need for more accurate exposure data from EDB residues in foods and feeds, and for data on acute or chronic inhalation and dermal exposures during soil, commodity, and crop fumigation. Such data is needed for the Agency to better assess the risks associated with these potential routes of exposure to EDB.

TABLE 13.—Summary of effects of EDB inhalation exposures in animals (adapted from data of Rowe, et al, 1953)

<table>
<thead>
<tr>
<th>Species (N)</th>
<th>Dosage mg/kg/b.w.</th>
<th>Observed effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sheep (1)</td>
<td>50.0</td>
<td>Blood cholinesterase activity (CE) 83 pet of pretreatment values, died in 3 d.</td>
</tr>
<tr>
<td></td>
<td>25.0</td>
<td>No ill effects, CE-81 pet, weight gain, lung and kidney weights above normal values, died in 6 d.</td>
</tr>
<tr>
<td></td>
<td>50.0</td>
<td>No ill effects, CE-80 pet, weight gain, lung and kidney weights above normal values, died in 6 d.</td>
</tr>
<tr>
<td></td>
<td>25.0</td>
<td>No ill effects, CE-50 pet, lung and kidney weights above normal values, died in 10 d.</td>
</tr>
<tr>
<td></td>
<td>50.0</td>
<td>No ill effects, lung and kidney weights above normal values, died in 10 d.</td>
</tr>
<tr>
<td>Chickens</td>
<td>200, 10, 4 d</td>
<td>4 died after 2 doses, 1 after 3 dose, anorexia and depression, exom praxis, heart and liver congestion.</td>
</tr>
<tr>
<td></td>
<td>100, 10, 4 d</td>
<td>No ill effects, slightly reduced weight gain.</td>
</tr>
<tr>
<td></td>
<td>50, 10, 4 d</td>
<td>No ill effects.</td>
</tr>
</tbody>
</table>

*Animals that died showed signs of stiliness, prostration, and anorexia.*

The NIOSH criteria document (1977) cites a number of studies on the acute toxicity of EDB to various animal species. Although the value of these studies is limited due to their generally imprecise design and small numbers of test organisms, they do show a similar pattern of acute toxic effects in a variety of animal species exposed through several routes. These studies and the tested species and routes of exposure include:

Thomas and Yant (1927), guinea pigs and rats, single inhalation and dermal exposures;

Lucas (1928), rabbits, single inhalation exposures;

Kochmann (1920), rabbits and rats, multiple inhalation exposures;


Sparrrow, A. H., and L. A. Schatrir. 1974. The effects of chemical mutagens (EDM, DHE) and specific air pollutants (Os, SO2, NO2, NO, N2O) on somatic mutation rates in Tradescantia. Talk presented at Symposium on The Potential Genetic Effects of Environmental Pollutants on Man, Moscow, USSR, February 18-21, 1974.


FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

*** REGISTER ***  NAME AND ADDRESS
* 000146  THOMSON-HAMILTON CHEMICAL COMPANY  2383  KANSAS CITY KS 66110

*** EXCUCUT BARES ********
**00097  DE-FESTER WEEVI KILL
**00142  DE-FESTER FUMIGANT NO. 2
**00195  SI-CT FUMIGANT
**00207  DE-FESTER GRAIN CONDITIONER AND WEEVI KILLER
**00264  T-H VACUUM FUMIGANT
**00994  T-H GRAIN FUMICANT NO. 7 WEEVI KILLER AND GRAIN CONDITIONER
**01044  T E. L. E. 40
**01062  T-H EDB 85

*** REGISTER ***  NAME AND ADDRESS
* 000168  WASATCH CHEMICAL DIVISION EMRADA IND INC  PO BOX 4715  SALT LAKE CITY UT 84104

*** PRODUCT BARE ********
**00218  ETHERI LINES II ECI: CIII EAK BEEZI SEAT FORMULA A
**00245  ETHERI LINES II ECI: CIII EAK BEEZI SEAT FORMULA B
**00346  ETHERI LINES II ECI: CIII EAK BEEZI SEAT FORMULA C
**00412  ETHERI LINES II ECI: CIII EAK BEEZI SEAT 42 INJUSIBLE
08/29/77

FEDERALLY REGISTERED PRODUCTS CONTAINING ICE

08/29/77

FEDERALLY REGISTERED PRODUCTS CONTAINING ICE

**REGISTRANT**  **NAME AND ADDRESS**
* 000279  FBC CORP.
    AGRICULTURAL CHEM. DIV.
    2006 EAGLE ST.
    PHILADELPHIA, PA. 19103

**PRODUCT NAME**
**00446** Insticide N, Cede 265
**01720** Niagara New Lightning Fungicide

**REGISTRANT**  **NAME AND ADDRESS**
* 000413  BARTLEIS & SHERES CHEMICAL COMPANY
    4000-62 S. 10TH AVE
    KANSAS CITY, MO. 64101

**PRODUCT NAME**
**00014** Bacticide M plastic film drench

**REGISTRANT**  **NAME AND ADDRESS**
* 004465  TECHNE CHEMICALS
    C/O REGULATORY AFFAIRS DEPT.
    P. O. BOX 7335
    KANSAS CITY, MO. 64116

**PRODUCT NAME**
**00070** Sure Lifem Enai Fungicide "66"
**00505** Sure Lifem Enai Fungicide No. 2
08/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

*REGISTRANT*  *NAME AND ADDRESS*
*  00035  
  1333 1 & COMPANY
  P O BOX 1060 6TH ST
  LAKE ELSINORE CA 92532

*REGISTRANT*  *NAME AND ADDRESS*
*  00025  
  LEITZ SPOTFUSE 60

*REGISTRANT*  *NAME AND ADDRESS*
*  00105  
  DOUGLAS CHEMICAL COMPANY
  BOX 267
  LIBERTY NY 14068

*REGISTRANT*  *NAME AND ADDRESS*
*  00100  
  DOUGLAS TITANIC II INSECT 6 GRAIN CONDITIONER
*  00101  
  DOUGLAS TITANIC III INSECT KILLER AND GRAIN CONDITIONER
*  00102  
  DOUGLAS TITANIC IV KILLER AND GRAIN CONDITIONER

*REGISTRANT*  *NAME AND ADDRESS*
*  00142  
  DETTILFAC CHEMICALS CCFP
  4TH WARD A B 4461 PEACH TREE ED ME
  ATLANTA GA 30319

*REGISTRANT*  *NAME AND ADDRESS*
*  00143  
  DOWCHEM W-48 PROTECTIVE FIRE CONSIDERATION WOODWORKS AND DECOR KNOB HERATIC
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<thead>
<tr>
<th>CAGE 9</th>
<th>08/29/77</th>
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<th>NAME AND ADDRESS</th>
<th>PRODUCT NAME</th>
</tr>
</thead>
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<td>TRINITY CHEMICAL COMPANY</td>
<td>EC 4528</td>
<td>MACON GA 31206</td>
<td>EDB CONTAINING BRAZON</td>
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<tr>
<td>O00243</td>
<td>TRINITY DOWFUNG N-40</td>
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<tr>
<td>O00164</td>
<td>EATON CHEMICAL</td>
<td>BOX 746</td>
<td>GRAND ISLE B3 48617</td>
<td>EDB CONTAINING BAVI</td>
</tr>
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FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
### Federally Registered Products Containing PPP

#### Registerant *PBB & PII Address*

<table>
<thead>
<tr>
<th>Registerant</th>
<th>Name &amp; Address</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>002342</strong></td>
<td>KERR-MCREE Chemical Corp</td>
</tr>
<tr>
<td><strong>002342</strong></td>
<td>P.O. Box 206322</td>
</tr>
<tr>
<td><strong>002342</strong></td>
<td>OKLAHOMA CITY, OK 73122</td>
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#### Registerant *PBB & PII Address*

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<thead>
<tr>
<th>Registerant</th>
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<tbody>
<tr>
<td><strong>002342</strong></td>
<td>FASCO Pure 3BB-40</td>
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<td><strong>002342</strong></td>
<td>SCI Fungicide</td>
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<td><strong>002342</strong></td>
<td>EICOFUNI - 85</td>
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<tr>
<td><strong>002342</strong></td>
<td>RESEARCH PRODUCTS CO.</td>
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<tr>
<td><strong>002342</strong></td>
<td>P.O. Box 3057</td>
</tr>
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<td><strong>002342</strong></td>
<td>SALTER KS 67462</td>
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<thead>
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<tbody>
<tr>
<td><strong>002342</strong></td>
<td>MAX SPOT KILL MACHINERY FUNGICANT</td>
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<td><strong>002342</strong></td>
<td>MAX KILL 70 LIQUID GRAIN FUNGICANT</td>
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<td>MAX KILL 50 - 59 Fungicide for Mills and Milling Machinery</td>
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<tr>
<td><strong>002342</strong></td>
<td>LYSTAD INC.</td>
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<tr>
<td><strong>002342</strong></td>
<td>P.O. Box 54261</td>
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<td><strong>002342</strong></td>
<td>GRAND FORKS ND 58201</td>
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<td>ROYAL PINE 85</td>
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<td>MIKE-TOX 431</td>
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<tr>
<td><strong>002342</strong></td>
<td>MIKE TOX 434</td>
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**NOTICES**

FEDERAL REGISTER, VOL. 42, NO. 240—WEDNESDAY, DECEMBER 14, 1977
FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

08/29/77

**REGISTRANT**  **NAME AND ADDRESS**
* 008536  SCIL CHEMICAL CORPORATION
    PO BOX 531
    MORGAN HILL CA 95037

PRODUCT NAME  **CHIEF-C-866** $2.5

**REGISTRANT**  **NAME AND ADDRESS**
* 00655C  AGNAY INC
    CHEMICAL DIV PO BOX 1333
    SYRACUSE NY 13201

PRODUCT NAME  **SUREFUME**
**SUREFUME W-65** $1.66 PER LITRE  SCIL FUSIGANT

**REGISTRANT**  **NAME AND ADDRESS**
* 009497  US DEPARTMENT OF AGRICULTURE
    FOREST SERVICE
    WASHINGTON DC 20250

PRODUCT NAME  **ISOBUTYL EDB**
**ISOBUTYL EDB**

**REGISTRANT**  **NAME AND ADDRESS**
* 009625  GLENN KW TURF & PEST CONTROL
    2205 24TH ST N
    ARLINGTON VA 22205

PRODUCT NAME  **SURE-FUME S-100**

**REGISTRANT**  **NAME AND ADDRESS**
* 009127  WEB INCORPORATED
    262 I  S  889 ST
    PETERSBURG VA 23803

PRODUCT NAME  **AGIL MB-68 SOIL FUSIGANT**
08/29/77
FEDERAL REGISTER NO. 240—WEDNESDAY, DECEMBER 14, 1977

**PRODUCT SEARCH LISTING**

<table>
<thead>
<tr>
<th>REGISTRANT*</th>
<th>NAME AND ADDRESS*</th>
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<tbody>
<tr>
<td>041454</td>
<td>WESTERN FARM SERVICE INC SHELL CHEM COMPANY 1625 CONNECTICUT AVE-NW STE 200 WASH DC 20006</td>
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**PRODUCTS BARE**

**04019** COAST-O-FUME N-85

**REGISTRANT* | NAME AND ADDRESS* |
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<tr>
<td>014775</td>
<td>AGC CHEMICALS COMPANY  PO BOX 512 PLANT CITY FL 33566</td>
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**PRODUCTS BARE**

**0002** KII-85
**0002N** KII-FUME 40

**REGISTRANT* | NAME AND ADDRESS* |
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<tr>
<td>021327</td>
<td>SOUTHWESTERN GRAIN SUPPLY COMPANY 1401 W 7TH ST  HARLINGEN TX 78550</td>
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**PRODUCTS BARE**

**00019** IBACO EPHAL R-1-E (ETHYLENE LIPERCHLORIDE)
08/29/77  APPLICANTS PCB REGISTRATION OF PRODUCTS CONTAINING EDB

*************************************************
# REGISTRANT  * NAME AND ADDRESS *
* 000460  ICM CHEMICAL U.S.A.
         PO BOX 1716
         MILWAUKEE WI 53201

*************************************************
# PRODUCT NAME  **********************
# ETHYLENE IMMERSIVE
# ICHEM M-85

*************************************************
# REGISTRANT  * NAME AND ADDRESS *
* 000260  VAN WATERS & ROGERS DIV OF UNIVAR
         2256 AUBURN AVENUE
         SAN JOSE, CA 95131

*************************************************
# PRODUCT NAME  **********************
# STAFFEL'S GRAIN PREGNANT

*************************************************
# REGISTRANT  * NAME AND ADDRESS *
* 005661  SWIVAC CHEMICAL CCS
         4100 EAST WASHINGTON BLVD
         ICS ENGINE, CA 90021

*************************************************
# PRODUCT NAME  **********************
# FUM-A-CIDE 54-45
# FUM-A-CIDE 30
# FUM-A-CIDE 16
# DEX-85
# RICO KILL-CCB

*************************************************
# REGISTRANT  * NAME AND ADDRESS *
* 005693  GEERBE JAMIE CCB
         1421 49TH
         P O BOX 2200
         WEST LAHAINA, HI 96796

*************************************************
# PRODUCT NAME  **********************
# TERRO C-CIDE 54-45

Federal Register, Vol. 42, No. 240—Wednesday, December 14, 1977
<table>
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<tr>
<td>GG8360</td>
<td>INDUSTRIAL CHEMICALS CORP.</td>
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<tr>
<td>1600 W 17TH ST</td>
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<td>DENVER CO 80210</td>
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### Applicants for Registration of Products Containing PCBs

**Applicants for Registration of Products Containing PCBs**

**Applicant**

- **Name:** ASGECO FIBERCOMP COMPANY
  - **Address:** TO DELETE
  - **City:** PLANT CITY, FL, 33566

**Product Name**

- **Product Name:** FIB-C 15 SCIL IEPICANT

[File Doc.77-33105 Filed: 12-13-77; 8:45 am]
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