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federal register

WEDNESDAY, DECEMBER 14, 1977

highlights

"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.

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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.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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	HEW/PHS			HEW/PHS

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.

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[3195-01]

Title 3—The President

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

(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.

Jimmy Carter

THE WHITE HOUSE,
December 12, 1977.

[FR Doc.77-35774 Filed 12-12-77;3:37 pm]

rules and regulations

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendments to Entitlements Program to Reduce Entitlement Obligations for Lower Tier Crude Oil Produced in California

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA of the Department of Energy (DOE) is adopting amendments to its domestic crude oil allocation (entitlements) program that, by reducing refiners' entitlement obligations for lower tier crude oil (25.9° API gravity and below) produced in California by $1.74 per barrel, are intended to enable producers of lower tier crude oil in California to receive their lawful ceiling prices and to provide incentives to refiners to process such oil. The offsetting increase in refiners' crude oil costs resulting from these amendments is limited to crude oil processed at refineries located in California. This is accomplished by reducing entitlement issuances for imported and Alaska North Slope crude oil processed in California refineries. Thus, current interregional transfers under the entitlements program will remain substantially unchanged, and the effects, if any, on product prices are projected to occur for the most part in the California market.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

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Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Edwin Mampe (Regulations and Emergency Planning), 2000 M Street NW., Room 2310, Washington, D.C. 20461, 202-254-7200.

Doug McIver (Entitlements Program Office), 2000 M Street NW., Room 61281, Washington, D.C. 20461, 202-254-8660.

Michael Paige (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5136, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Comments
III. Entitlements Program Amendments Adopted
IV. Other Amendments Adopted
V. Procedures With Respect to Exception Applications
VI. Further Proceedings

I. Background

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 produced in California, Southern Alaska and certain other states. FEA held public hearings in San Francisco, California, and Washington, D.C. and received written comments on the proposal. The amendments proposed were intended to compensate for certain aspects of the entitlements program that appear to create economic disincentives for refiners to pay the full current ceiling prices for low gravity, lower tier crude oil in California, which in turn threatens that some of such crude oil production will be shut in.

EPCA PROVISIONS

The ceiling prices of most lower tier crude oil produced in California and Southern Alaska were recently increased pursuant to the provisions of the Energy Conservation and Production Act (the "ECPA"), which specifically required in section 122 that amendments to the pricing regulations be promulgated to adjust differentials in ceiling prices which are the result of gravity price differentials that fail substantially to reflect current relative market valuations 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 California and Southern Alaska crude oil could increase 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 price 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 oils, 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 at 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 low gravity crude oil, 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 in refiners' crude oil acquisition costs, however, since the May 1973 base prices for lower tier crude oil, to which a fixed dollar amount ($1.57 in November 1977) has been added to determine the current ceiling prices (and to which is then added the net entitlement obligation to determine the refiners' total acquisition costs), reflect the quality differentials that prevailed at that time.

For the reasons stated more fully below, the quality differential between California low gravity, high sulphur crude oil and the average crude oil produced in this country has substantially

[1] Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

widened since May 1973. This has resulted in refiners being unwilling to pay the full current ceiling price for such California crude oil. At the ceiling prices applicable to it, this crude oil is simply not competitive with upper tier and exempt domestic and imported crude oils, as to which there is either no entitlement obligation or only a partial entitlement obligation. While this same problem applies to low gravity, lower tier crude oil produced elsewhere, it is particularly pronounced in California, which accounts for approximately 75% of the total national production of low gravity crude oil (i.e., about 25 degrees API gravity, or less).

FEA's tentative conclusion prior to issuance of the March 17 notice was that further purchase incentives for refiners, either through changes in market conditions or in FEA's regulations, appeared to be needed for producers of low gravity, lower tier crude oil on the West Coast to receive their ceiling prices.

Under the proposed amendments, refiners with refineries located in PADD V (defined, for purposes of the proposal only, to include the states of Alaska, Arizona, California, Nevada, Oregon and Washington) were to be issued 54 cents per barrel additional entitlement value for each barrel of lower tier crude oil produced in that District and included in the inventory receipts of those refineries. Concomitantly, the number of entitlements issued to all refiners for imported crude oil receipts for refineries located in PADD V would be decreased by an aggregate amount equal to the total increase in entitlement issuances for all PADD V refineries for lower tier PADD V production received in the particular month. Therefore, under the proposal, the expected resulting increase in refiners' overall crude oil costs, if any, was proposed to be limited to refiners located in PADD V, and there would have been no substantial change in the current interregional transfers under the entitlements program.

Certain other conforming changes to the crude oil exchange and certification provisions of the entitlements program were also proposed, as well as certain changes to the certification requirements of Part 212.

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]; Executive Order No. 12009, 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. * * *

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 adoption of 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 Washington, D.C. on April 14, 1977, and in San Francisco, Calif., on April 15, 1977. The commenters included major, large 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 generally have not been able to obtain the revised ceiling prices for their crude oil. Opinions varied, however, concerning the implications of this situation and what actions, if any, should be taken to correct it.

A number of comments, while acknowledging the existence of a pricing problem with respect to California lower tier crude, opposed addressing this problem through the entitlements program. These commenters argued that it would be inappropriate to use the entitlements program, which was designed to equalize crude oil costs among refiners, as a means of assisting producers of lower tier heavy crude in PADD V. Several comments took the position that refiners and consumers should not be required to pay higher prices for this lower quality crude which, because of its low gravity and high sulphur content, is considered undesirable by many refiners. There was also opposition on the grounds that the proposal would increase the crude oil costs of, and thus penalize, those refiners PADD V that are primarily or totally reliant upon imported crudes. Some commenters expressed doubt as to whether the additional entitlements value which refiners of the PADD V lower tier crude would receive under the proposed amendments would in fact result in higher prices to be paid to the producers, although other commenters thought that at least some of the benefit of the adjusted entitlement value would be passed through to the producers.

On the other hand, comments were received in support of the proposal, generally on the ground that reduction of entitlements obligations for PADD V lower tier crude was an appropriate way to improve the pricing situation with respect to such crude, to maintain and enhance domestic production, and to decrease dependence on foreign oil. Several commenters, however, were of the opinion that, due to the high costs associated with refining crude oil of this quality and the relatively low value of the products refined from this crude oil, the proposed entitlement adjustment of 54 cents per barrel would not be adequate to accomplish these goals and recommended raising the additional entitlement incentive substantially.

Finally, there was a difference of opinion among the comments concerning the proposal to limit the increase in refiners' overall crude oil costs that is expected to result from the proposed entitlements adjustments to refineries located in PADD V. Some commenters expressed the view that this limitation would place too great a burden on the PADD V refiners and is inconsistent with the manner in which costs are borne in other areas of the entitlements program. Others, however, agreed that the cost of this specialized benefit for PADD V lower tier crude should be borne by the particular region affected.

III. Entitlements Program Amendments Adopted

GENERAL

The regulatory issues raised by the problems that led to FEA's March 17 proposal are very complex. First, the ERA believes that there are other forces besides that of the entitlements program which are affecting the marketability of California low gravity crude oil. For example, there are stringent environmental restrictions placed by the State of California on the use of high sulphur residual fuel oil, due to the severe air quality problems existent 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 entitlements program does not take these changing circumstances into account.

Also advanced as a contributing factor to the relative unattractiveness of California heavy, sour crude oil is the fact that refiners are restricted by price controls in their ability to recover a fair rate of return on investments in new desulphurization facilities. A further contributing factor is that the West Coast refining market is largely self-contained. Due to the lack of transportation facili-

ties across the Rocky Mountains, the market for California production is confined largely to California refineries, where it must compete 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 pending in Congress certain legislative proposals to deal with the problem of depressed California crude oil prices, but they would become fully 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 proposed by the President would place a wellhead tax on all domestically produced 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 controlled price tiers, it would equalize costs at the world price and thus would replace the entitlements program. Under the House version (Sec. 2031), the amount of the tax would differ not only between price tiers but also according to the value of crude oil being taxed, and thus would provide some price relief to California heavy crude oil producers. The bill gives the Secretary of the Treasury authority to:

> Establish classifications for crude oil which are based on grade, type, and location and which are designed to avoid undue financial hardship or benefits to producers or first purchasers.

The problem, however, is that, to avoid severe economic dislocations, the crude oil equalization tax will be phased in over three years. Under H.R. 8444, in 1978 the tax would be equal to one-half the difference between the lower tier ceiling price for a given classification of crude oil and the upper tier ceiling price for that same crude oil. In 1979, the tax would be equal to the full difference between the ceiling prices for the two tiers of controlled crude oil. In 1980, the tax would be equal to the difference between the controlled price and the market price for a given classification of crude oil. (During this three-year period, the entitlements program would be phasing out as it is gradually replaced by the tax.) The phasing of the tax thus means it would be three years before California producers would receive the full benefits of the relief which the tax would provide.

The crude oil equalization tax is now being considered by a Conference Committee of both Houses of Congress, and it is not possible at this time to predict the exact form in which it will be enacted, if it is enacted at all. In any event, it will not provide immediate relief to California producers, and for that reason the amendments to the entitlements program adopted today are necessary. If a variable crude oil equalization tax of identical or similar structure to that of the House bill should be included in the final version of the National Energy Act as passed by the Congress and signed by the President, further conforming modifications to the amendments to the entitlements program adopted today will be required and will be proposed for public comment as soon as possible after enactment of the tax.

RATIONALE FOR AMENDMENTS ADOPTED

Based on the record in this proceeding and ERA's statutory mandates, the ERA has determined to amend the entitlements program to provide refiners added incentives to purchase low gravity lower tier crude oil produced in California. On balance, the inability of the current entitlements program to be responsive to changing market conditions is the principal factor that is depressing prices of California crude oils below ceiling levels.

The information provided in this proceeding, as well as meritorious applications for exception relief that continue to be filed with the ERA by producers of California heavy crude oil, suggest that current depressed prices are causing or are likely to cause in the near future substantial volumes of California heavy crude oils not to be produced. Due to the mechanics of the reservoirs and recovery methods involved, once production is shut in or the opportunity to apply enhanced recovery methods is foregone, in many instances 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 rents and excessive profits. However, here the information available to the ERA indicates that the combination of ceiling prices and entitlement regulations (as well as independent economic and market factors) prevents producers from realizing the ceiling prices themselves and significantly threatens the maintenance of existing California production at maximum feasible rates. In these circumstances, adjustments in the regulatory program to prevent these unintended results is appropriate. As the President stated in his April 29, 1977 National Energy Plan, "a national energy policy should encourage production." The action taken today may not result in a net increase in California production, but is designed to help prolong the life and arrest the rate of decline of existing California production.

Yet another reason for the regulatory action taken today is that it will provide needed incentives for West Coast refiners to make capital investments in the very expensive equipment required to remove the sulphur from heavy, sour crude oil and to process greater percentages of it into the lighter products such as gasoline, aviation fuel and heating oil. DOE estimates that in March 1978, when the Trans Alaska Pipeline begins delivering 1.2 million barrels per day of North Slope oil to the West Coast, a surplus of about 500,000 barrels a day will have to be shipped past the West Coast and through the Panama Canal to Gulf Coast refineries. At the same time, however, West Coast refineries will continue to import about 500,000 barrels per day from foreign sources.

This apparent contradiction is due to the fact that most West Coast refineries are currently not capable of processing Alaska North Slope or indigenous California production without cutting it with substantial volumes of light, sweet crude oil, mostly imported from Indonesia. At the present time, the acquisition cost differential between imported crude oil and heavier, more sour domestic supplies is not sufficient to cause refiners to convert their refineries to process more heavy, sour oil. Since the trend in both domestic and world oil supply is toward the heavier, more sour crude oils, it clearly is in the public interest for refiners to begin to convert their refineries to process such oil. By reducing the entitlement burden on heavy California crude oil and effectively increasing it for light, sweet imports, the amendments adopted today will provide increased incentives for such conversions.

Finally, the ERA believes this action to be appropriate for the agency to fulfill its mandate under the ECPA, which requires regulatory provision for:

> The adjustment of differentials in ceiling prices for crude oil that are the result of gravity differentials which are arbitrary, discriminatory, applied on a regional or local basis without reasonable justification, or fail substantially to reflect current relative market valuations of such differentials * * * (Sec. 122)

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' intent in enacting Section 122 of the ECPA—the modifications to the entitlements program adopted here are necessary.

The amendments the ERA is adopting today will, effective for crude oil receipts 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 based on the prices for, and net after-entitlement acquisition costs of, lower tier Huntington Beach, Calif., 20° API gravity, 1.7 percent sulphur crude oil. This crude oil is generally representative of lower tier California crude oils in gravity and sulphur content. After adjusting for entitlement obligations, the net acquisition cost of refiners that purchase lower tier Huntington Beach crude oil is $1.74 per barrel higher than the net acquisition cost of identical stripper well crude oil produced from the same field.

The following table shows the ERA's calculations for a recent period of the entitlements program disincentives applicable to purchasers of lower tier California crude oil at various gravity levels as compared with comparable quality stripper well crude oil produced in that State. It should be noted that the table does not show average shortfalls in producers' realizations of their ceiling prices, which are substantially

less than the entitlement program disincentives shown.

Range of ° API gravity:	*Lower tier penalty (vs. stripper)*
10–14	$2.37
15–19	2.04
20–24	1.74
25–29	1.44
30–34	1.19
35–39	1.11

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 on the purchase of such oil.

Since the principal purpose of the amendments adopted today is to assure that producers will realize their full ceiling prices, they provide for the reduction of entitlement obligations only for lower tier production of 25.9° API gravity and below. The ERA's conclusion from the record in this proceeding is that provision for an incentive of $1.74 per barrel for this crude oil, based upon the current disincentive of that amount for what the ERA believes to be a representative lower tier crude oil produced in California, should be adequate to enable producers in California to receive their lower tier ceiling prices and at the same time not result in windfalls to refiners that receive these incentives. Reducing entitlement obligations by the amount of the refiner acquisition cost differential, rather than by the amount that current producer prices fall short of ceiling prices as proposed in the March 17 notice, is in accord with comments received in this proceeding to the effect that the shortfalls from ceiling prices alone were not an accurate measure of the actual disincentives to purchase lower tier, low gravity California production and would not eliminate those shortfalls entirely.

PROVISION OF ENTITLEMENT PENALTY FOR IMPORTED AND ALASKA NORTH SLOPE CRUDE OIL

Under the entitlements program, the entitlement benefits conveyed in any month are exactly equal to the obligations imposed. Thus, reducing the entitlement obligations for heavy California oil will necessarily result in reducing entitlement benefits received for lower and upper tier, exempt domestic, and imported oil. Without further change in the entitlements program, this reduction in benefits would automatically be spread across all refiners in the United States.

The March 17 proposal, however, would have further amended the program to provide that the "cost" of the entitlement relief given to heavy, lower tier production would be made up by an offsetting reduction in the entitlement benefits for imported crude oil processed by refiners in PADD V (as redefined in the proposal). This proposal was made because imported crude oil at that time effectively constituted the sole alternative for California refiners to indigenous production and because imported crude oil of comparable quality to California production received such favorable treatment under the entitlements program that it had a lower effective acquisition cost to refiners. The clear intent of the March 17 proposal was to render lower tier crude oils produced in California competitive with crude oils from alternative sources outside California insofar as their respective treatment under the entitlements program is concerned.

Since the March 17 proposal, the Trans-Alaska Pipeline has become operational and has been delivering about 720,000 barrels per day to Valdez on the southern coast of Alaska. In March 1978, 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 imported 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 entitlements 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, given the fact that, because 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 softened 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 "* * * on whether it is likely that 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 15420, March 22, 1977). In addition, in adopting the final rule on Alaskan 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 upper tier entitlements treatment. * * *
>
> FEA has not concluded that the entitlements treatment for ANS crude oil adopted herein is necessary to provide incentives to complete development of the main Prudhoe Bay Pool. Nor is it entirely clear that such treatment is necessary to provide an incentive to ANS producers to proceed with the development of the Lisburne and Kuparuk Pools, the other two proven reserves on 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. (Emphasis added.) (42 FR 41567, August 17, 1977.)

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 offsetting entitlement benefit reduction, required by the entitlement relief given for California lower tier, heavy crudes, to Alaskan North Slope as well as to imported crude oil. There are two principal reasons for this conclusion. First, Alaska North Slope crude oil has by now displaced a significant volume of imports into California and, since it is of slightly higher quality than typical indigenous production, it constitutes a clear alternative source of feedstock for refineries located in California. Thus, the rationale in the March 17 proposal for placing the entitlement penalty on imported crude oil only now applies equally to Alaskan North Slope oil, given the imported tier entitlements treatment it has been afforded.

Second, and even more important, if North Slope crude oil were not treated the same as imported oil, the North Slope producers would realize an unexpected and unneeded windfall. This is because placing all of the cost of the lower tier incentive for California heavy crude oil on imported crude oil would raise the refiner acquisition cost of imports substantially. Since the delivered prices for North Slope crude oil are generally set by the prevailing prices for imports, this might in turn cause the prices of North Slope crude oil delivered to the West Coast to increase along with the effective cost of imports. Without a compensating entitlement adjustment, North Slope producers would realize higher prices at the wellhead than were contemplated when the entitlement rules for North Slope crude oil were adopted.

Finally, it is appropriate to include North Slope crude oil with imported crude oil to spread the burden of the adjustment provided for lower tier California crude oil as far as possible and reduce the possibility that it will provide undue hardship to any California refiner. As noted above, the DOE estimates that after March 1978 only about 500,000 barrels per day may be imported to the West Coast, and a portion of that is received by refiners in the State of Washington.

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 production received on the West 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.

GEOGRAPHIC AREA AFFECTED

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 Alaska, Arizona, California, Nevada, Oregon, and Washington. Similarly, the offsetting reduction in entitlements benefits issued was proposed to be applicable to all refineries located in those same states that ran imported crude oil. Based on the record in this proceeding and its own data, 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 received and processed in refineries located in the State of California. The ERA has determined that it would be inequitable to include imported and North Slope crude oil received by other refineries on the West Coast, most of which are located on Puget Sound in Washington, because such refiners do not have ready access to California production and therefore would not be able to realize the benefits as well as the costs of the adjustments adopted herein.

REVISED CALCULATION OF ENTITLEMENT ISSUANCES (§ 211.67(a))

The specific entitlement program amendments adopted in a new § 211.67 (a) (4) have the effect of reducing refiners' entitlement obligations for receipts of lower tier crude oil produced in California of 25.9 degrees API gravity and below. The amendments adopted provide that each such barrel of California lower tier crude oil included in a refiner's crude oil receipts will result in the issuance of additional entitlements to that refiner equivalent in value to $1.74 for each such barrel so included. As explained more fully above, these additional entitlement issuances for California lower tier crude oil will be compensated for by an equivalent reduction in entitlement issuances for imported crude oil and Alaska North Slope crude oil included in the crude oil receipts of refineries located in California. This is accomplished under § 211.67(a) (4) (ii), by reducing the number of entitlements issued to refiners receiving imported and North Slope crude oil at California refineries in an aggregate amount which would offset the total increase in entitlement issuances deriving from the benefits given to receipts of California lower tier production under § 211.67(a) (4) (i). For every barrel of imported or Alaska 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 Alaska North Slope crude oil received in that month at all refineries in California. The per barrel penalty on imported and Alaska North Slope crude oil could vary greatly from month to month, depending on actual receipts of shipments of these crude oils and on their volumes relative to those of California lower tier crude oil receipts.

CRUDE OIL EXCHANGES (§ 211.67(g))

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 actually receives imported or 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 time when 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 deemed for entitlement purposes to be domestic crude oil under § 211.67(g) and would give rise to the applicable entitlement obligation.

IV. OTHER AMENDMENTS ADOPTED

BUY/SELL PROGRAM (§ 211.65)

The ERA is amending § 211.67(f) (1) to clarify the treatment of sales under the Mandatory Crude Oil Allocation Program. The amendment provides that volumes of crude oil sold for processing by a refiner-buyer in California will constitute imported crude oil for that refiner-buyer, thus giving rise to the applicable entitlement penalty under § 211.67(a) (4), nothwithstanding the fact that the actual crude oil sold may be domestic crude oil.

REPORTING REQUIREMENTS (§ 211.66)

To implement these amendments, the ERA is modifying the monthly reporting requirements contained in 10 CFR 211.66(h), to provide the ERA with information as to refiners' receipts of California lower tier production and as to imported and Alaska North Slope crude oil received into California refineries.

CERTIFICATION REQUIREMENTS (§ 212.131 AND 211.67(L))

The ERA is adding certification requirements to §§ 212.131 and 211.67(l) to enable refiners to identify receipts from producers, resellers and non-refiners of lower tier crude oil which was produced in California. The separate identification of Alaska North Slope crude oil was previously incorporated in these requirements. The ERA is also modifying the certification requirements for resellers, as proposed in the March 17 notice, to change the provision under which an entire blended volume of covered products mixed with crude oil should be certified as crude oil. The amendment now allows only the actual volumes of crude oil in the mixture to be so certified.

V. PROCEDURES WITH RESPECT TO EXCEPTION APPLICATIONS

The ERA recognizes that the amendments adopted today may require adjustments to exception relief currently in effect for small refiners located in California. It is also possible that other applications for exception relief would be submitted by refiners that are relying to a significant extent on imported or Alaska North Slope crude oil and 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 requirement over the period for which the relief was 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 hereby could increase certain refiners' costs of imported or Alaska North Slope crude oil (after entitlements) to levels that may well exceed levels expected to prevail for refiners that have access to California lower tier crude oil. Consequently, the Office of Administrative Review will consider exception applications by refiners that are adversely affected by these regulations and in appropriate cases approve relief.

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 of the offsetting entitlement reduction on California refiners dependent on imported or Alaska North Slope crude oil.

Accordingly, the present rulemaking remains open for the purpose of considering further modifications to the amendments adopted today. The ERA will soon issue a Further Notice of Proposed Rulemaking that will solicit public comments on whether the offsetting burden on entitlement sellers to allow incentives for the purchase of California lower tier, heavy crude oil should be spread to all refiners throughout the country, consistent with treatment of similar aspects of the entitlements program that are designed to assist a particular region of the country. In addition, the notice will deal with modifications to conform the relief given here to the crude oil equalization tax, if one has been enacted by then, and any other adjustments that may appear necessary after the ERA has had an opportunity to assess the impact of these entitlement adjustments on the California market. A public hearing on these and perhaps other proposals will be held in the first quarter of 1978, with the exact date and location to be specified in the further notice.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

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.

Issued in Washington, D.C., December 8, 1977.

David J. Bardin,
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 25.9 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.

* * * * *

"ERA" means the Economic Regulatory Administration of the Department of Energy established by Pub. L. 95–91 (August 4, 1977).

* * * * *

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

§ 211.66 Reporting requirements.

* * * * *

(h) *Monthly report.* On or prior to the fifth day of each month, commencing with the month of March 1978, each refiner shall file with the ERA a report certifying the following information as to 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 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 the first sale of which is exempt from the provisions of Part 212 of this chapter, and imported crude oil included in that refiner's crude oil receipts. For refiners required to file transfer pricing report forms under §212.84 of this chapter, the weighted average cost of imported crude oil reported under this paragraph shall be derived from the landed costs set forth in such reports.

(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 attributable to refineries located in the State of California.

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

* * * * *

3. Section 211.67 is amended by revising paragraph (a)(1), adding a new paragraph (a)(4), revising paragraph (f)(1), adding a new paragraph (g)(6) and revising paragraph (l) 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)(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 (i) 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 (A) 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 the State of California multiplied by (B) the aggregate increase in entitlement issuances for all refiners 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 refiners 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-seller 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 adjustments set forth in paragraph (a)(4) of this section, a refiner-buyer's receipts of imported crude oil and Alaska North Slope crude oil shall include volumes of crude oil sold under § 211.65 to that refiner-buyer.

* * * * *

(g) *Exchanges of crude oil.* * * *

(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 refiner, the receipt of such imported crude oil at such a refinery shall result in a reduction 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.

* * * * *

(l) *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 to that refiner the respective volumes of and that firm's costs for old 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 crude oil so delivered to that refiner.

* * * * *

4. Section 212.131 is amended by: revising paragraphs (a)(2)(i) and (a)(3)(i), adding new (a)(3)(ii), redesignating present (a)(3)(ii) and (iii) as (a)(3)(iii) 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);

(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 § 212.72, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975, and, if applicable, either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76.

* * * * *

(3) *Unitized properties.* (i) With respect to each sale of crude oil from a unitized property for which the producer has determined a unit base production control level, the producer shall 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).

(ii) 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)(3)(i) and (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 § 212.75(b);

(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).

* * * * *

(b)(1) Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a) 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 deemed to have been transferred pursuant to § 211.37(g) of Part 211, certify in writing to the purchaser the respective volumes of and respective per barrel prices for the—

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

(ii) Upper tier ("new") crude oil, exclusive of any crude oil transported through the trans-Alaska pipeline;

(iii) Crude oil transported through the trans-Alaska pipeline;

(iv) Stripper well crude oil; and

(v) Other domestic crude oils the first sale of which is exempt from the provisions of this part—included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the 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;1:52 pm]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Reg. B; EC-0009]

PART 202—EQUAL CREDIT OPPORTUNITY

Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation.

SUMMARY: The Board is publishing the following official staff interpretation of Regulation B, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: November 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3946.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR 202.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1691(b).

12 CFR Part 202, EC-0009.

§ 202.3(e)—Relation between business credit exemptions provided by § 202.3(e) and requirements under § 202.9 and § 202.12.

§ 202.9—Relation between business credit exemptions provided by § 202.3(e) and requirements under § 202.9 and § 202.12.

§ 202.12—Relation between business credit

exemptions provided by § 202.3(e) and requirements under § 202.9 and § 202.12.

NOVEMBER 2, 1977.

In your letter of September 14, 1977, you requested an official Board or staff interpretation regarding the treatment of business credit in Regulation B, Equal Credit Opportunity. The following is an official staff interpretation.

Section 202.3 affords specialized treatment to business credit. In particular, § 202.3(e) exempts business credit transactions from § 202.9, notifications, unless an applicant requests the reasons for adverse action. You ask for clarification of the relationship between §§ 202.3 and 202.9.

A creditor is required by § 202.3(e)(2) to notify an applicant that adverse action has been taken within a reasonable time of such action. This notification may be written or oral. The applicant then has 30 days to make a request in writing for the reasons for the adverse action. You ask what must be done when the applicant makes such a request.

When such a request is received, the creditor has 30 days to give the applicant a written statement of the specific reasons for the action and the Equal Credit Opportunity Act notice. The sample forms set forth in § 202.9(b)(2) may be used or may be adapted for business credit purposes. That portion of the sample statement required by the Fair Credit Reporting Act and related to disclosure of the source of outside information is, of course, inapplicable to business credit. In addition, a business creditor may rely on the special rules provided by § 202.9 with regard to multiple applicants, multiple creditors, other information, oral notifications, withdrawn applications, inadvertent errors, and method of delivering the notification.

You also request clarification of the relation between §§ 202.3 and 202.12(b), concerning record retention. If, within 90 days after adverse action was taken, an applicant makes a written request that the records relating to the application be retained, a creditor must retain records as required by § 202.12(b).

If we may be of further assistance, please do not hesitate to contact this office.

Very truly yours,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, December 7, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-35685 Filed 12-13-77;8:45 am]

[1505-01]

Title 13—Business and Credit Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 315—ADJUSTMENT ASSISTANCE FOR FIRMS AND COMMUNITIES

Clarification of Policy

Correction

In FR Doc. 77-33560, appearing at page 59836 in the issue of Tuesday, November 22, 1977, make the following changes:

1. On page 59836, third column, the seventh line of the paragraph designated "3." should read "cide with the amended § 315.98(a)".

2. On page 59837, first column, the third word in the 6th line of § 315.51(b)(3) should read, "available".

3. On page 59837, second column, the first line of § 315.56(c) should read, "(c) Funds will not be considered avail-".

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1031; Docket 29792 Amdt. 6]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Increase in Air Taxi Aircraft Size in Hawaii

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This rule increases the authorized maximum size of aircraft which may be used by air taxi operators for operations within the State of Hawaii. The increase in size will enable the air taxi operators to operate more efficiently and to provide better service to Hawaii's air-dependent communities. The amendment was proposed by the Board in response to a petition by Island Air Transfer, a Hawaiian air taxi.

DATES: Effective: December 8, 1977. Adopted: December 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Office of the General Counsel, Civil Aeronautics Board, Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: Since its 1972 amendment, Part 298 of the Economic Regulations (14 CFR Part 298) generally limits the size of aircraft which may be used by air taxi operators to a maximum payload capacity of 7,500 pounds and a passenger capacity of 30 seats. However, for air taxi operations solely within the State of Hawaii, the size of the air taxi aircraft continues to be limited to the maximum that had generally applied to all air taxi operations before the 1972 amendment to Part 298, *i.e.*, 12,500 pounds certified takeoff weight. This more restrictive limit for Hawaii, with the aircraft now available, effectively restricts the maximum payload capacity to approximately 5,000 pounds and the seating capacity to 15–19 seats.

In January of 1976, Island Air Transfer, Ltd. (IAT), an air taxi operator in Hawaii, filed an application for exemption (D.28808) to operate one DC-3 aircraft (which is above the 12,500 pounds takeoff limit, but below the 7500 pound payload limit) in cargo service. In denying IAT's petition for reconsideration of the Board's denial of that application, the Board stated, in Order 76-9-49, that the proper context for review of Hawaiian air taxi aircraft weight limitations would be a rulemaking proceeding. On September 16, 1976, IAT filed the petition for rulemaking that initiated this proceeding, requesting the aircraft weight and size restrictions for both passenger and cargo air taxi operations in Hawaii be raised to the 7500 pound maximum payload capacity and 30 seat maximum passenger capacity limit applicable in the rest of the United States.

In response to this petition, the Board issued Notice of Proposed Rulemaking EDR-317, dated January 6, 1977 (42 FR 2692), proposing the change requested by IAT. The Board, also asked for specific comment on the anticipated operating plans of the air taxi operators in markets competitive with the certificated carriers, as well as in other Hawaiian markets, the public need for large air taxi aircraft, and the diversionary impact on the Hawaiian certificated carriers that could result from the use of larger air taxi aircraft. Comments, reply comments, and individual letters were received from 16 parties.[1]

Upon consideration of the petition, comments and letters, and all relevant matters, the Board has decided to amend Part 298 so as to raise the limitation for aircraft used by air taxi operators within the state of Hawaii to the one applicable in the rest of the United States. All requests contained in the comments are denied unless specifically granted.

In 1972, after an extensive review of the entire air taxi industry in the "Part 298 Weight Limitation Investigation," (Orders 72-7-61 and 72-9-62), the Board replaced the operational definition of "small aircraft" (a maximum certified takeoff weight of 12,500 pounds), with a definition based on the aircraft's capacity of no more than 7500 pounds maximum payload and 30 passenger seats.

The Board found significant public benefits in allowing the use of somewhat larger aircraft (p. 7) Order 72-7-61, and found that its action would not change the traditional role of air taxi operations or alter the relationship between the air taxis and the certificated carriers. We found that the new limits would not significantly harm the certificated carriers, including the local service carriers. We pointed specifically to the locals' impressive growth, and their increasing reliance on jet equipment with substantially larger seating capacities than the propeller and turboprop aircraft of the 1960's. We determined that the modest increase in air taxi equipment limitations, "far from disturbing the balance between air taxi and certificated services, will restore it, in part, by drawing the line between them in a manner which recognizes the substantial development of certificated operations * * *" (P. 31, Order 72-7-61.)

As to Hawaii and Alaska, however, we found special circumstances which warranted a retention of the lower aircraft limits for the time being, notwithstanding the substantial public benefits of the larger air taxi equipment.[2] The Board accepted the Hearing Examiner's finding that to increase the size of aircraft that could be operated by air taxis in Hawaii would at that time have impaired the

See footnotes at end of article.

"efforts to establish vigorous competition on an economical basis" by the Hawaiian carriers operating under certificated authority, due to the financial and competitive conditions then prevailing in Hawaii. Specifically, the Hearing Examiner noted that the two certificated Hawaiian carriers, Aloha and Hawaiian, were operating head-to-head competition throughout the state and that both had been losing money. He also noted the Board's policy of preserving, if possible, completion by certificated carriers in the state, while at the same time minimizing the potential subsidy burden upon the public treasury.

With this background, we turn to our consideration of whether air taxi operations in Hawaii should now be brought into line with such operations in the other 49 states. Upon consideration, we have determined to make final the tentative findings and conclusions that underlay our institution of these proceedings by EDR-317. We find that there is no longer a valid basis for denying the Hawaiian traveling public the benefits of air taxi operations available to travelers in the other states. Our findings in the 1972 investigation on the benefits of the larger aircraft were amply explained. These findings continue to be valid in the Hawaiian markets, and support our conclusions here.

The comments received amplify the case for somewhat larger air taxi equipment in the state of Hawaii. According to Air Molokai, passengers would benefit from larger aircraft in terms of increased luggage allowance and easier access for the elderly. Air Molokai claims that with the lower cost-per-seat-mile of the larger aircraft, it can maintain current fares, or even possibly decrease them. Due to the increasing demand for passenger air taxi service in Hawaii, Air Molokai has also found it physically impossible to meet this need by increasing the number of the outmoded small aircraft in use. To do so would substantially increase congestion in air traffic corridors, and would be an uneconomic use of energy.

The primary consideration of the Board in evaluating the need for larger air taxi aircraft in Hawaii, as it was in the 1972 investigation, is the quality of service available to the smaller communities, and the associated finding that operations with larger aircraft would supplement certificated service. The State of Hawaii specifically stressed this point in its argument in support of the proposed amendments, stating that there is a large gap between the capacity of the all-jet fleets of Aloha and Hawaiian (119 and 139 seats, respectively), and the small planes operated by the Hawaiian air taxis. This gap, it asserts, results in reduced service to the smaller communities of Hawaii served by the certificated carriers through less-frequent flights, and higher fares than necessary in those served by the air taxis, since the air taxis are prohibited from benefiting from the economies of scale available with slightly larger aircraft. One small hotel, on one of the outer islands, Hotel Molokai, states that service provided by the certificated carriers to Molokai is infrequent and unreliable, claiming that 20 percent of the scheduled flights of Hawaiian into Hoolehua, the principal airport on Molokai, are cancelled because weather conditions prevent Hawaiian's large jet aircraft from landing, due to the length and location of the runways. This results in group bookings at the hotel often being cancelled, since there is no other way that groups of any size can reach the island. Air Molokai supports this claim of a need to supplement the certificated service now being provided by stating in the afternoon the certificated carriers operate only one flight a day into Molokai, and in the morning, only 3–4 times per week. Hotel Molokai believes that air taxis operating somewhat larger aircraft could fill this gap. Larger air taxi aircraft could meet these traffic needs, and would not be as hampered by these operational limitations.

As another example, Hawaiian recently requested authority from the Board to suspend the only remaining scheduled service at Waimea (Kamulea).[3] As one reason for the request, Hawaiian stated that it is uneconomic for its large jet aircraft to operate at that airport, and that commuter air service is available as replacement. Indeed, in reviewing the summary of the passenger flights provided by Hawaiian (pp. 14–15), the Board notes that several other outer islands and airports in addition to Waimea and Molokai receive similar abbreviated daily or semi-weekly service. Also, four airports are not *served at all by the certificated* carriers—Kanapoli, Upola Point, Hana, Kalaupapa—but are served by the commuter carriers. Kanapoli alone in the year ended June 30, 1976, as the 19th largest commuter carrier market in the country, enplaned over 59,000 passengers.

A large part of the air taxi passenger market in Hawaii is apparently that of residents of Hawaii, and depends much less on the tourist market and transfers from mainland carriers than do the certificated carriers. For example, Air Molokai estimates that 99 percent of its passengers are local, rather than tourist. It is precisely these residents and communities which the air taxis, with frequent and turn-around operations, are designed to serve, and which the certificated carriers cannot economically serve.

There is an even more clearly defined need for an increase in the size of aircraft used for air taxi cargo service. Various shippers have submitted letters in support of this amendment.[4] Several produce shippers and the Hawaii Department of Agriculture fully support the efforts of Horizon Air Service (the largest commuter cargo carrier) to provide all-cargo service with slightly larger aircraft. It is particularly the frequency and availability of direct flights to many points which attracts the produce shippers to air taxis. Also, these shippers, as well as others, believe that one benefit in the use of larger aircraft by air taxis is the introduction of container service, and the cost-savings this permits. This is especially important at communities not now served by the cargo operations of the certificated carriers.

While the certificated carriers are providing cargo air transportation, including some all-cargo freighter service, we are persuaded that they cannot fully meet these specialized needs of the Hawaiian shippers, needs which would be met by air taxi operations. During the day, Hawaiian carries freight on its combination aircraft on scheduled passenger flights. At night, it provides freighter service only to certain communities.[5]

The shippers' comments indicate that while there is a limited demand for the capacity of Hawaiian's aircraft, there is a need for all-cargo service of the type and in the markets of the air taxis which exceeds the capacity of their aircraft now in use. Thus, for example, shippers state that the proposed daytime all-cargo service with larger aircraft of the air taxis could carry restricted items and oversize cargo, a service which the certificated carriers cannot provide using only combination flights during the day. 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 Kamuela receive no regular freighter service, and Kamuela receives only 2 passenger flights per week. This type of schedule makes it impossible for freighter-only material such as containers, pallets, restricted and oversize items, to connect with mainland flights during the day from these points. An increase in the air taxis size would therefore help meet these needs, and enable the air taxis to attract shippers from the surface barge traffic, and to institute container service to communities not now receiving it.

The data submitted by Hawaiian in its comments show a 48 percent average 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 contention 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

See footnotes at end of article.

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,[6] 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 is sufficient to make the requisite findings under section 416 of the Act, and that no further procedures are required.

Our goal in this proceeding is to encourage and protect an integrated 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 air taxis were excluded from the general increase in aircraft size, the financial condition of the certificated carriers and the competitive nature of 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 $75.2 million, respectively; operating profits went from a negative $806,000 for Aloha and a $1.6 million profit for Hawaiian to $1.1 million and $2.5 million, respectively.[7] As shown by the comments of Hawaii, load factors for the two certificated carriers from 1969 to 1976 have increased from an average 43 percent to an average 64 percent; while during the period from 1971 through 1976, the air taxi share of the intra-Hawaiian market increased a mere .4 percentage points. For the 12 months through September 1976, the scheduled passenger revenue miles of Aloha and Hawaiian totaled 698 million; while the commuters generated only 17.5 million passenger revenue miles through December 1976.

Of the 195,701 passengers enplaned by the commuters through the year ending June 1976, over 107,000 were on flight segments not flown by the certificated carriers.[8] Although the commuters and other air taxis do compete with the certificated carriers in the majority of their service markets, the mere presence of competition is not in itself dispositive. Nor does the fact that competition is permitted on routes served by a certificated carrier act to modify or revoke that certificate, as claimed by Hawaiian. The question must be whether, as a result of this competition, diversion occurs which causes scheduled service on a particular route to be reduced to the point that it no longer serves the convenience of the public that wishes to use it.

Because of the difference in type of service of the air taxi and its market concentration, we disagree with Hawaiian and Aloha that either such a reduction in service or serious economic consequences will result from this small increase in the size of air taxi aircraft. The special considerations which convinced us five years ago to retain a more restrictive air taxi equipment limitation in Hawaii are no longer persuasive. Specifically, Aloha and Hawaiian are no longer in need of such special protection, as shown by their continued subsidy-free financial growth. Also, their services with jet aircraft are now grown in scope and character to the point where 30-seat air taxi operations are not directly comparable, or indeed competitive in certain markets. We do not believe that this minor change, i.e., from 19 seats to 30 seats, and from 5000 pounds to 7500 pounds, will substantially impair the health of the carriers or the competitive picture in Hawaii. Since the 1972 decision, the Board approved capacity agreements between Aloha and Hawaiian to stop the predatory competition which was occurring, and which was draining both carriers. Although these agreements have expired, Aloha and Hawaiian show continuing profits, substantial increases in operating revenues, and no inclination to return to that type of competition. Even though the air taxis do compete with the certificated carriers in the majority of the passenger markets served by them, several flight segments, generating substantial passenger traffic, as indicated above, are not flown by these carriers for either economic or operational reasons. It is on these flight segments, and by providing frequent, turnaround service in the other markets, that the air taxis can best complement the certificated carriers.

Turning to the question of whether enforcement of the certification procedures would be an undue burden on an air taxi operator 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.[9] 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 financially risky, 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, as in the case of air taxis 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 taxis reporting to the Hawaii Department of Transportation carried only 328,623 passengers in 1976, which compares with a total of 4.9 million passengers carried by Hawaiian and Aloha during the same period.[10] For example, Royal Hawaiian Air Service, the largest passenger commuter carrier in Hawaii, enplaned only 151,296 passengers in the year ended June 30, 1976; and Horizon Air Service carried only 3.2 million lbs. of cargo during the same period.[11] Also, the routes of air taxis in Hawaii, as in other States, generate limited revenues. For example, in the year ended December 1976, the Hawaiian commuter carriers generated only 17.5 million revenue passenger miles, and carried only 5.8 million pounds of cargo.[12] These characteristics lead us to conclude that enforcement 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 these 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, and will be prepared to take whatever measures are necessary to ensure an adequate standard of certificated service, including consideration of applications for suspension and deletion by the certificated carriers.

In consideration of the foregoing, the Board concludes that the conditions in the Hawaiian market no longer warrant an exception from the air taxi regulations generally applicable under Part 298.

The Board finds that because this amendment removes a restriction, and the public will benefit from the rule taking effect without delay, good cause is shown to make it effective immediately.

Accordingly, 14 CFR Part 298 is amended as follows:

1. Amend § 298.2 by revising the definition of "large aircraft" to read as follows:

§ 298.2 Definitions.

As used in this part:

* * * * *

(i) "Large aircraft" means any aircraft having a maximum passenger ca-

See footnotes at end of article.

pacity of more than 30 seats 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.

* * * * *

2. Amend § 298.31 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 reregister 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 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 of 1958, as amended, 72 Stat. 743, 771 (49 U.S.C. 1324, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–35687 Filed 12–13–77;8:45 am]

FOOTNOTES

[1] Comments, reply comments, or letters in support were received from IAT, the State of Hawaii, Hawaii Air Cargo Shippers Association, Air Molokai, and Hotel Molokai. Opposed were the Air Line Pilots Association International (ALPA), Royal Hawaiian Air Service, Aloha Airlines, Mawaiian Airlines (Hawaiian also incorporated by reference its pleadings from D. 28808, the IAT exemption proceeding), William L. George and Rick G. Braun. A letter from U.S. Representative Daniel K. Akaka, and a resolution (S.R. 327) from the Senate of Hawaii were received recommending that a hearing be held before a final decision is made by the Board.

[2] By ER–970, dated October 1, 1976 (41 F.R. 44033), the Board amended Part 298 to make the size and weight limitations applicable in Alaska the same as in the continental United States.

[3] See Order 77–9–76, dated September 20, 1977, "Service to Kamuela Case." Aloha's application for renewal of its authority to suspend service at Kamuela was consolidated into this case.

[4] Horizon Air Service submitted 15 letters from shippers with its answer in this case, and IAT submitted 31 letters with its pleadings in Docket 28808.

[5] Comments of Hawaiian, pp. 17–18, show all-cargo service to Honolulu, Kahului, Lihue, Hilo, and Kona. All-cargo service is provided to Lanai, Molokai, and Kamuela as needed.

[6] Senate of Hawaii, U.S. Representative Daniel K. Akaka, Rick G. Braun, and William L. George.

[7] CAB Form 41; Hawaiian, in its comments, argues that a proper comparison (rather than of gross revenues and net income as in EDR–317) would require deleting capital gains and losses and non-transport ventures from the financial statements, which would then show a profit of $246,752 in 1971 as compared to a loss of $661,610 in 1976 (Hawaiian comments, p. 8). We agree with Hawaiian that non-transport ventures should not be included. In fact, it is the opinion of the Board that the proper comparison for this purpose would be the status of the operating accounts, excluding all other accounts, as well as capital gains and income from non-transport ventures, as we have done here.

[8] CAB Form 298–C; comments of Hawaiian, p. 14.

[9] *Hughes Air Corp.* v. *C.A.B.*, 492 F. 2d 567 (D.C. Cir. 1973).

[10] Comments of Hawaiian, Appendix 3.

[11] Commuter Air Carrier Traffic Statistics, Standards Division, Bureau of Operating Rights, Civil Aeronautics Board, January 1977.

[12] CAB Form 298–C.

[3510–25]

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 13—PROCEDURES RELATING TO REVIEWS BY THE SECRETARY OF COMMERCE

Watches and Watch Movements; Cancellation

AGENCY: Office of the Secretary, Commerce.

ACTION: Cancellation of watch and watch movement review procedures.

SUMMARY: Regulations formerly appearing in 15 CFR Part 13 are transferred to 15 CFR Chapter III and incorporated in a new Part 303 added to that chapter to contain the regulations issued jointly by the Department of Commerce and the Department of the Interior under Pub. L. 89–805, 19 U.S.C. 1202, which establishes a limitation on the number of watches and watch movements containing foreign components which may be imported duty-free from insular possessions of the United States.

DATE: This transfer shall become effective December 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard M. Seppa, 202–377–2925.

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

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

[3510–25]

CHAPTER III—DOMESTIC AND INTERNATIONAL [1] BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 303—WATCHES AND WATCH MOVEMENTS

Codification of Watch Quota Rules

AGENCY: Industry and Trade Administration (formerly Domestic and International Business Administration), Commerce; and Office of the Secretary, Interior.

ACTION: Codification of watch quota rules with general applicability and future effect. Final rules.

SUMMARY: This action combines into a single part (i) previously published annual rules which have general applicability and future effect and (ii) previously published special rules which relate to the responsibility of the Secretaries 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. 89–805 (19 U.S.C. 1202).

DATE: These rules shall become effective December 9, 1977.

FOR ADDITIONAL INFORMATION CONTACT:

Mr. Richard M. Seppa, who can be reached by telephone on 202–377–2925.

SUPPLEMENTARY INFORMATION: On September 30, 1977, there was published in the FEDERAL REGISTER (42 FR 52433 et seq.) proposed rules for codification 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 allocation 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, however, some modifications, as set forth below, have been adopted.

For the sake of consistency, the term "Secretaries" has been substituted throughout wherever the term "Departments" occurred in the proposed rules; correspondingly, "Departments" has been deleted from the list of definitions.

In § 303.3 paragraph (c) has been deleted as inconsistent with required rulemaking procedures.

In § 303.5(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 relinquished 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.
303.5 Allocation and reallocation of quotas.
303.6 Issuance of licenses.
303.7 Issuance of shipment 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, 80 Stat. 1521 (19 U.S.C. 1202) as amended.

[1] Editorial Note: Chapter III will be formally renamed at a future date to "Industry & Trade Administration, Department of Commerce."

§ 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 Schedules 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 products of the insular possessions 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 the preceding calendar year) 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 one calendar year (no provision is made for carryover of unutlizied quota from on eyear to hte next). The International Trade Commission (ITC) is responsible for determining apparent consumption and applying the percentage factors provided in the act to determine the total duty-free quota and the distinct quotas for the Virgin Islands (87.5 percent of the total), Guam (8.33 percent) and American Samoa (4.17 percent), respectively. On or before April 1 of each year the ITC is required to publish these determinations in the FEDERAL REGISTER. The law further provides that the Secretaries of Commerce and the Interior, acting jointly, shall allocate the annual quotas fairly and equitably among producers of watches and watch movements located in the insular possessions and gives the Secretaries authority to issue any regulations they deem necessary to carry out their duties. Pub. L. 94-88, enacted August 9, 1975, further amended general headnote 3(a) to exempt from duty watches and watch movements assembled in the insular possessions when they do not contain foreign materials to the value of more than 70 percent of their total value.

§ 303.2 Definitions and forms.

(a) Unless the context otherwise indicates:

(1) "Act" means Pub. L. 89-805, enacted November 10, 1966, 80 Stat. 1521 (19 U.S.C. 1202) as amended by Pub. L. 94-88, 89 Stat. 433.

(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 any other 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 entrant" 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. It is an interim allocation designed to permit the continuation of production and marketing operations pending issuance of the "annual allocation".

(11) "Annual allocation" refers to the full calendar year allocation made to each producer. The sum of the annual allocations, plus any amount of quota that may be set aside or reserved for allocation to new firms, equals in each territory the amount of 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 maximixing 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 will generally involve reduced allocations and supplemental allocations. 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 completed once 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 specific shipment 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-340, "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 license 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 port of entry specified 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 forthcoming calendar year. Interested parties will be asked to provide written comments within the time specified in the notice. As early as possible 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 formulae 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. Failure to supply the data required in the application form may result in the producer's ineligibility for an annual allocation of quota and in the cancellation of its initial quota 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 equalling 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 a quota exceeding the amount 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 by 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 Secretaries determine 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 disprorportionate amount of the annual allocation. Allocations 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 which 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 producer's present assembly operations and any other factors which, in the judgment of the Secretaries, bear on the well-being and established character 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 portions of quotas. Among 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(s), 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 production 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 units 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 previous 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

date of issuance, e.g., an initial license must be completely used before shipment permits can be issued against an initial supplemental license.

(e) Outstanding licenses issued by the Director automatically expire at midnight, December 31, of each calendar year. No unused quota may be carried over into the subsequent calendar year.

(f) The Director shall ensure that all licenses issued are conspicuously marked to show the type of license issued, the identity of the producer, and the year for which the license is valid. All such licenses shall bear the signature of the Director.

(g) Each producer is responsible for the security of its licenses. The loss of a license shall be reported immediately to the Director. Defacing, tampering with or unauthorized use of a license may result in the cancellation of the producer's quota.

§ 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 official(s) to the Director. Such delegations shall become effective upon receipt of the Secretaries' written concurrence.

(b) Each permit shall, among other things, specify 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 only the 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 documents required by the U.S. 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 circumstance 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 pertinent 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 and lost prior to 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 time remains and parts are available in the quota year to assemble and ship a replacement shipment, the Director will, upon written request of the producer, direct the issuing office in the territory to issue a replacement permit without charge against the producer's license. In such cases, credit for quota calculation purposes will be accorded the replacement shipment but not the lost shipment.

(g) If a shipment permit has been issued and thereafter is not used, the holder of the license shall notify the office which issued the shipment permit and present the permit for cancellation. The issuing office shall correct the balance shown on the producer's license and shall notify the Director of the action it has taken. If a shipment permit is lost, the shipper shall immediately notify both the issuing office and the Director. Improper utilization of shipment permits may result in the cancellation of the producer's quota.

§ 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 Four DIB–321P will be forwarded by the Director to each producer at its territorial address of record at least 15 days prior to the required reporting date. The Form DIB–321P must be completed 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 is also to be used for reporting any changes in ownership interest and control which have occurred during the reporting period.

§ 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 cancelled or reduced 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 90 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 duty-free watch 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 of watches and watch 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 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 of the above if deemed in the best interest of the territories and the established industry.

§ 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 or sale. The Secretaries may require such 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 quota. Any 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 short 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.

[FR Doc.77-35701 Filed 12-12-77;11:01 am]

[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, Washington, D.C. 20230, Telephone 202-377-4196.

SUPPLEMENTARY INFORMATION: A review by the Office of Export Administration of the use made by exporters within the past year of the Periodic Requirements License procedure and the Time Limit License procedure indicates that the two procedures are no longer significant extent. In those instances where the procedures have been utilized, the regular license procedure, or in one case, the Distribution License, could have been substituted for these two special licensing procedures without the imposition of an additional burden on exporters. It has therefore been determined that the two procedures are no longer necessary and are being discontinued.

Outstanding licenses under the discontinued procedures will remain valid until their expiration dates.

Accordingly, the Export Administration Regulations (15 CFR Part 368 et seq.) are amended as follows.

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

§ 370.2 [Amended]

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

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

§ 372.2 [Amended]

2. In § 372.2 paragraphs (b)(4) and (b)(5) are deleted and reserved.

PART 373—SPECIAL LICENSING PROCEDURES

3. Sections 373.5 and 373.6 are deleted and reserved.

§ 373.5 [Revised]

§ 373.6 [Revised]

PART 374—REEXPORTS

4. In § 374.2 paragraph (e) is revised to read as follows:

§ 374.2 Permissive reexports.

* * * * *

(e) Reexports between ultimate consignees as provided by the terms of: the Project License procedure (see § 373.2 (g)) or the Distributions License procedure (see § 373.3(i)).

* * * * *

PART 375—DOCUMENTATION REQUIREMENTS

5. In § 375.2 the second sentence of paragraph (a) and the first sentence of paragraph (b)(7) are revised to read as follows:

§ 375.2 Form DIB-629P; Statement by ultimate consignee and purchaser.

(a) * * * 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 399—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.

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated November 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Order 46-1, dated November 17, 1975, 40 FR 59764 (1975), as amended.)

Dated: December 9, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Department of Commerce.

[FR Doc.77-35647 Filed 12-13-77;8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 4—MISCELLANEOUS RULES

Disclosure of Explanatory Material Prior to Open Commission Meetings

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This rule adds to the Commission's Sunshine Act rules a provision for the disclosure of explanatory material prior to each open Commission meeting, so that people who attend the meeting can understand the discussion more readily.

EFFECTIVE DATE: December 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack Schwartz, Assistant to the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3615.

SUPPLEMENTARY INFORMATION: The Commission promulgated rules implementing the Government in the Sunshine Act, Pub. L. 94-409, at 42 FR 13533 (March 11, 1977). In its discussion accompanying those rules, the Commission noted its intention to make available before open meetings summaries of matters on the agenda in order to facilitate the public's understanding of open discussion. The Commission has now determined, as an exercise of its discretion, to set out a more general provision to effectuate that policy in the rules themselves. For each open agenda item, the Commissioner to whom the matter has been assigned for presentation has been delegated authority to make available, prior to the meeting, material sufficient to inform the public of the issues likely to be discussed at the meeting. The material, which may consist of a draft rule or other staff proposal, excerpts from a staff memorandum, or a summary, will be available in Room 130 of FTC Headquarters, the business day before the open meeting.

Accordingly, 16 CFR Chapter I is amended as follows:

By adding the following subparagraph (3) to § 4.15(b):

§ 4.15 Commission meetings.

* * * * *

(b) * * *

(3) The Commissioner to whom a matter has been assigned for presentation to the Commission shall have the authority to make available to the public, prior to consideration of that matter at an open meeting, material sufficient to inform the public of the issues likely to be discussed in connection with that matter.

By direction of the Commission dated October 26, 1977.

CAROL M. THOMAS,
Secretary.

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

[6750-01]

[Docket No. C-2911]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Providers Benefit Co., Et Al.

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.[1]

FOR FURTHER INFORMATION CONTACT:

Jack Dugan, Acting Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 26 Federal Plaza, New York, N.Y. 10007, 212-264-1207.

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:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-25 Displays, in-house; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records; 13.533-55 Refunds, rebates and/or credits. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; 13.1623-95 Truth in Lending Act; § 13.1760 Terms and conditions; 13.1760-40 Insurance coverage; 13.1760-50 Sales contract—Prices: § 13.1823 Terms and conditions; 13.1823-20 Truth in Lending Act. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852-75 Truth in Lending Act; § 13.1905 Terms and conditions; 13.1905-40 Insurance coverage; 13.1905-50 Sales contract; 13.1905-60 Truth in Lending Act. Subpart—Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.2080 Terms and conditions; 13.2080-40 Insurance coverage.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; (15 U.S.C. 45, 1601, et seq.).)

CAROL M. THOMAS,
Secretary.

[FR Doc.77-35635 Filed 12-14-77;8:45 am]

[6750-01]

[Docket No. 9040]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Kroger Co.

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 each of its advertised items readily available for sale to customers in its stores, to have advertised items 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.

DATES: Complaint issued June 24, 1975. Order issued Nov. 11, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Richard C. Foster, Assistant Director of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 6th St. and Pennsylvania Ave. NW., Washington, D.C. 20580, 202-523-3355.

SUPPLEMENTARY INFORMATION: On Wednesday, May 11, 1977, there was published in the FEDERAL REGISTER 42 FR

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

23843, a proposed consent agreement with analysis In the Matter of The Kroger Co., a corporation, 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.

Comments were received and considered by the Commission.

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.

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

Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10–1 Availability of merchandise and/or facilities; § 13.180 Quantity; 13.180–30 In stock; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–25 Displays, in-house; 13.533–45 Maintain records. Subpart—Disseminating Advertisements: § 13.1043 Disseminating advertisements. Subpart — Misrepresenting Oneself and Goods—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1720 Quantity; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

CAROL M. THOMAS,
Secretary.

[FR Doc.77-35634 Filed 12-14-77;8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 829-7; PP 5F1628, 5F1629/R140]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one

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

ACTION: Final rule.

SUMMARY: This rules establishes tolerances for residues of the herbicide 4-amino - 6 - (1,1 - dimethylethyl) - 3 - (methylthio) - 1,2,4 - triazin - 5(4*H*) - one. The amendment to the regulations was requested by Mobay Chemical Corp. This rule establishes maximum permissible levels for residues of the subject herbicide on various raw agricultural commodities.

EFFECTIVE DATE: Effective on December 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 202–426–2632.

SUPPLEMENTARY INFORMATION: On October 11, 1977, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 54842) in response to two pesticide petitions (PP 5F1628 and 5F1629) submitted to the Agency by Mobay Chemical Corp., P.O. Box 4913, Hawthorn Road, 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-dimethylethyl) - 3 - (methylthio) - 1,2,3-triazin-5(4*H*)-one and its triazinone metabolites in or on the raw agricultural commodities alfalfa grass and sainfoin hay at 7 parts per million (ppm); green alfalfa, grass, and sainfoin at 2 ppm; wheat straw at 0.2 ppm; asparagus, wheat grain, sweet corn (kernels plus cob with husk removed), and corn grain at 0.05 ppm; meat, fat, 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 rulemaking.

Subsequently, the petitioner amended PP 5F1628 by deleting the proposed 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 should be adopted 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.

Effective on December 14, 1977, Part 180, Subpart C, Section 180.332 is revised as set forth below.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2).)

Dated: December 7, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

That Part 180, Subpart C, § 180.332 is amended by (a) alphabetically inserting 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 asparagus, 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-dimethylethyl)-3-(methylthio)-1,2,4,-triazin-5(4*H*)-one; tolerances for residues.

Tolerances are established for combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl) - 3 -(methylthio) - 1,2,4-triazin-6(4*H*)-one and its triazinone metabolites in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Alfalfa, green	2
Alfalfa, hay	7
Asparagus	.05
Cattle, fat	.7
Cattle, mbyp	.7
Cattle, meat	.7
Corn, fodder	.1
Corn, forage	.1
Corn, fresh (inc. sweet K+CWHR)	.05
Corn, grain (inc. popcorn)	.05
Eggs	.01
Goats, fat	.7
Goats, mbyp	.7
Goats, meat	.7
Grass	2
Grass, hay	7
Hogs, fat	.7
Hogs, mbyp	.7
Hogs, meat	.7
Horses, fat	.7
Horses, mbyp	.7
Horses, meat	.7
Milk	.05
Potatoes	.6
Poultry, fat	.7
Poultry, mbyp	.7
Poultry, meat	.7
Sainfoin	2
Sainfoin, hay	7
Sheep, fat	.7
Sheep, mbyp	.7
Sheep, meat	.7
Soybeans	.1
Sugarcane	.1

* * * * *

[FR Doc.77-35689 Filed 12-13-77;8:45 am]

[4310-10]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 33—ALLOCATION OF DUTY-FREE WATCHES FROM THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA

NOTE.—Public Law 89-805 (19 U.S.C. 1202) authorizes the Secretary of the Interior and the Secretary of Commerce to issue joint regulations governing the allocation of duty-free quotas for watches and watch movements assembled in the Virgin Islands, Guam, and American Samoa. For the text

of joint regulations on this subject, see 15 CFR 303.[1]

[6730–01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

[General Order 39; 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 hereby 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 which result 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. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202–523–5725.

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 acts of other nations. When the 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 only right and just 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. It is well recognized that the power of Congress over foreign commerce is absolute and may be used for the purposes of retaliation. These powers may, of course, be delegated by Congress.

Section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. section 576, hereinafter referred to as section 19), is the delegation of such authority to the Federal Maritime Commission (Commission). Section 19 authorizes and directs the Commission to make rules and regulations affecting 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 by 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 any other vessel, 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 duty free under the Guatemalan Industrial Development Laws or the Central American Agreement on Tax Incentives for Industrial Development and which are not carried on "Guatemalan carriers." More than 600 importing industries, accounting for the vast preponderance of Guatemalan imports from the United States, qualify for such duty free status for their imports under the Guatemalan Industrial Development Law or the Central American Agreement on Tax Incentives for Industrial Development.

Decree No. 41–71 defines the term "Guatemalan carriers" as those carriers owned by the State (Guatemala), or in which the State has a majority interest, 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". Pursuant to Article 3 of Guatemalan Decree 41–71, CCT and Flota Mercante Gran Centro Americana, S.A. (a Guatemalan-flag carrier known as Flomerca) has entered into an agreement of "association" whereby CCT pays Flomerca 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. 820), on all carriers serving in the trade between the U.S. Atlantic and Gulf Coasts and Guatemala. The STR also held hearings on the Delta complaint on September 25 and 26, 1976.

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-

[1] Regulations under 15 CFR Part 303 appear elsewhere in this issue of the FEDERAL REGISTER (FR Doc. 77-35701). The correct page number is listed in the table of contents for this issue under "Domestic and International Business Administration."

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 nonassociated carriers to the carriers of Guatemala and their associates. Furthermore, delays in the transportation of goods had occurred because of the limited capacities of the Guatemalan carriers. Clearly, U.S. carriers had been 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 promulgate a final regulation that 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 earthquate 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 16, 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, 1920.

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), Transportation Institute, Dow Chemical Latin America (Dow), the Embassy of Guatemala, and Marine Chartering Co., Inc. (Maritime Chartering).

Delta commented that the Government of Guatemala has again been fining 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 assured the Commission they would do, in return for holding 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. Decree No. 26–77, which has yet to be transmitted by the Guatemalan Congress to the President of Guatemala for signature, would repeal Decree 41–71 but 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 asserts that the Commission has no recourse but to proceed with the promulgation of countervailing regulations.

Crowley states that their affiliated companies, namely Gulf Caribbean Marine Lines, Inc. and Trailer Marine Transport Corporation, have had numerous audiences with officials of the Government of Guatemala and Guatemalan flag lines in the previous year 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 waivers of penalties (50% of ocean freight) imposed by Guatemalan Decree 41–71. Our most recent meeting with Guatemalan authorities was during the week of July 18.

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 carriers and their associates.

Sea-Land fully supports the Commission's proposed rulemaking to establish countervailing fees on "favored" 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 well made. 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 identity of importers who are granted duty free status from being revealed, we are amending the final rules to require the "favored 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 incentive laws.

The Equalization Fee is expected to be passed through the carrier to the shipper. The Commission recognizes that the "favored carriers" may attempt to absorb the Equalization Fee but does not expect such an absorption to occur. The Commission will not, at this time, require any amendments to any carrier's tariff. If, however, it appears that 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 comrised of 140 member shipper companies, also supports issuance of countervailing regulations. 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 uncertainty in the U.S.-Guatemalan trade 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 loss, 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 vessels of Guatemala flag lines, i.e., Flomerca and Armagua. These lines offer relatively poor sailing schedules due to their shortage of vessels and the fact that their existing 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 to 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, Flomerca still does not offer container service. Only recenty, Armagua began to offer containers in limited numbers to Santo Tomas. This limited service is hardly adequate to cover Dow's needs, much less other U.S. shippers. Due to Decree 41–71, we continue to suffer financial losses as a result of lost and damaged cargo, because we must ship on "favored" carriers, using what we consider inadequate service.
>
> D. Two "favored" carriers do operate Ro/Ro ships from Miami. So as to take advantage of this more frequent service offered by these "favored" carriers, we must move our cargo to Miami from our principal manufacturing sites in Freeport, Texas (freight premium $29/ton); Plaquemine, Louisiana (freight premium $13/ton); or Midland, Michigan (freight premium $35/ton).

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 the alternative of shipping break-bulk and possibly suffering severe losses or damaged cargo, or paying premiums and shipping via Miami. By comparison, two U.S. carriers, Sea-Land and Del^a, offer containerized service from the Gulf, and Sea-Land offers service from the North Atlantic. Due to Decree 41–71, however, Dow is unable to utilize these superior alternatives without subjecting Dow cargoes to 50% fines by the Guatemalan government.

E. The "favored" carriers of Guatemala have no regularly scheduled service from Europe and the Far East. Because of Decree 41–71, Dow and other U.S. exporters are restricted to Guatemalan flag lines (and associates), while Dow's foreign competitors are free to ship to Guatemala on any line that offers acceptable rates and service. As a result, Dow continually faces loss of business to foreign competition.

F. While Dow and its customers have continually sought waivers so that Dow could better service the Guatemalan market through a variety of carriers, these requests have always been denied. When Dow has shipped on U.S. flag carriers and those cargoes were fined, Dow has had to absorb this additional expense.

Dow concludes that it is unfortunate but nevertheless necessary that countervailing regulations are required to provide U.S. flag lines equal access to cargo being shipped to Guatemala.

Marine Chartering, as managing agents of Lineas Maritimas de Guatemala, S.A., submitted comments requesting the postponement of this rulemaking because of the passage of Decree 26–77. Marine Chartering asserts that with Decree 41–71 no longer in effect, Commission action will be no longer necessary.

The Embassy of the Government of Guatemala also submitted a comment. The Embassy forwarded the following message from the President of Flomerca:

Please inform FMC that proposed Law modifying Decree 41–71 is pending approval of Congress of the Republic and therefore we request to postpone enactment of proposed actions against Guatemalan shipping lines.

The Embassy points out that new shipping law (Decree 26–77) now with the Congress of Guatemala replaces Decree 41–71 with the purpose of eliminating any conflict with section 19, Merchant Marine Act of 1920.

Contrary to the assertions of Marine Chartering, Decree 26–77 has not yet been forwarded to the President of Guatemala for signature. However, even if that Decree were to be implemented, many of the problems would still remain. One type of discrimination would merely be substituted for another which would probably also require countervailing action by the Commission.

The comments of Delta, Dow, Crowley, Sea-Land and the Transportation Institute firmly establish that the conditions unfavorable to shipping in the foreign trade of the United States have not been abated despite our repeated objections to the Government of Guatemala. Since our remonstrances have been met with refusal, the Commission will exercise the authority delegated by Congress to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States which have been and continue to be resulting from the laws and acts of the Government of Guatemala.

This rule imposes an Equilization Fee on all Guatemalan vessels and the vessels of their associated carriers transporting goods from the United States to Guatemala which may be imported into Guatemala duty free under the Guatemalan Industrial Development Laws or the Central American Agreement on Tax Incentives for Industrial Development. This Equalization Fee, amounting to 50 percent of the freight charges, is calculated to offset the penalty imposed under Decree No. 41–71 for the transportion of such goods on carriers other than Guatemalan carriers or associated carriers. Furthermore, the Commission will, by notice in the FEDERAL REGISTER, adjust the level of the Equilization Fee to any extent necessary to adjust or 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 Guatemala trade resulting from Decree No. 41–71, and to place all carriers in those trades on an equal competitive footing. Guatemalan carriers and associated carriers which are authorized under Decree No. 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 no longer receiving 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 ensure that all Equalization Fees will be paid. The Equalization Fee Payment Guarantee must be in an amount equal to one-sixth of the total freight charges earned by the favored carrier on cargo which it loaded in the United States for unloading in Guatemala during the preceding twelve months, or equal to $75,000, whichever is greater. It is believed that this amount would be adequate to cover the total Equalization Fees which any favored carrier might accrue and not pay in a timely fashion.

A procedure is established for the favored carrier to report data pertaining to each voyage from the United States to Guatemala by each vessel of the favored carrier, including the freight charges on which Equalization Fees must be paid. Such reports would have to be filed with the Commission within four calendar days following departure of each vessel from the United States and be accompanied by the Equalization Fee arising from that particular voyage. Failure to comply with the requirements of this rule could result in the detention of any vessel owned, operated, or carrying cargo for the amount of such "favored carrier."

The final rules allow for any Equalization Fee Payment Guarantee (certified check or Surety Bond) to be 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 an 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, 828, 831, 841a), the Commission hereby enacts Part 507, Title 46 CFR, as follows:

Sec.

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 fee payment guarantee.
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.

AUTHORITY: Commission General Order No. 33 (46 CFR section 506), section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. section 876(1)(b)), section 4 of the Administrative Procedure Act (5 U.S.C. section 553), sections 21, 29, 32 and 43 of the Shipping Act, 1916 (46 U.S.C. section 820, 828, 831 and 841a), and Reorganization Plan No. 7 of 1961 (75 Stat. 840).

§ 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 carriers and their associated carriers. For the purposes of this part, the term "favored carriers" will be used to indicate the following Guatemalan carriers or their associated carriers receiving preferential treatment as a result of Republic of Guatemala Decree No. 41–71: (1) Armagua 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 Flomerca 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 warrant.

§ 507.2 Favored carriers without equalization fee payment guarantee precluded from U.S. trade.

No vessel owned, operated, or controlled by, or carrying cargo for the account of, a favored carrier, shall load any cargo ultimately destined for Guatemala from any port or point in the United States or exit a United States harbor 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 Guarantee on file with the Federal Maritime Commission. Any vessel which carries cargo in violation of this Part, any vessel owned, operated, controlled, or carrying cargo for the account of a favored carrier who owns, operates or controls a vessel which carriers cargo in violation of this Part, or any vessel owned, operated, or controlled by, or carrying cargo for the account of a favored carrier for whose account cargo is carried by a vessel which violates this Part may be precluded from entering any port or loading cargo in any port of the United States by an Order of the Commission and shall be subject to a civil penalty of not more than $1,000 for each day such violation continues. Any carrier who owns, operates or controls a vessel which carriers cargo in violation of this part or for whose account a vessel carriers cargo in 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 guarantee.

(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 Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, 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 transshipment from the United States to Guatemala 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 transshipment, from the United States to Guatemala in the twelve months immediately following the month of application;

(2) The total for each month of freight charges earned by each vessel on cargo loaded in the United States and transported directly or indirectly to Guatemala during the twelve months immediately preceding the month of the application;

(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 accompanied by a Surety Bond (FMC Form 128), or certified check payable to the Secretary of the Federal Maritime Commission, in a U.S. dollar amount equal to one sixth the freight charges earned by all the vessels identified in the application, 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 is 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 Department of the Treasury Circular 570—Surety Companies Annual List (Companies Holding Certificates of Authorities as Acceptable Reinsuring Companies). The face value of any Bond may not exceed 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 issued by a bank or trust company incorporated under the laws of the United States, the District of Columbia, or any State of the United States.

(f) In the event that any Surety Bond or certified check is used to satisfy any unpaid Equalization Fees which are delinquent under § 507.5 below, any vessel owned, operated, controlled by or carrying cargo for the account of, such carrier shall not carry U.S. cargo, either directly or indirectly, to Guatemala until a new Surety Bond or certified check is filed with the Commission. The filing of a new Surety Bond or certified check will not be considered to be effective until all outstanding Summary Reports of Cargo Carryings required under § 507.4 of this Part, and all Equalization Fees required by § 507.5 of this Part have been filed and paid in full.

(g) All "favored carriers" required to file FMC Form 147 shall file an amended Form FMC 147 on or before each January 1 and July 1 following the effective date of this Part.

§ 507.4 Summary reports of cargo carryings.

(a) Within four calendar days after departure from the last United States port of call of any vessel which is carrying cargo ultimately destined for Guatemala and which is owned, operated or controlled by, or carrying cargo for the account of, a "favored carrier," such favored carrier shall file with the Federal Maritime Commission, Office of the Secretary, Washington, D.C. 20573, a Summary Report of Cargo Carryings 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 Guatemala, either directl yor through transshipment, list the following:

(i) Total revenue tons, and

(ii) Total freight (in U.S. dollars);

(8) For all cargo bound for Guatemala (either directly or through transshipment), separately list each shipment, giving

(i) The name of the shipper;

(ii) The name and address of the consignee;

(iii) The tariff description of the cargo;

(iv) The revenue tons;

(v) The freight charges, enumerating:

(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 Equalization 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 reporting carrier's Chief Executive Officer.

(c) For the purposes of these rules the term "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 revenue derived from the carriage of cargo, including (1) the tariff rate, (2) surcharges and arbitraries, and (3) all other transportation charges properly assessed against the cargo.

(d) 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 benefits under the Guatemalan industrial development laws or the Central American Agreement on Tax Incentives for Industrial Development.

§ 507.5 Equalization fees.

Each "favored carrier" required to file a report pursuant to the provisions of

§ 507.5, above, shall at the time of such filing, pay to the Office of the Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, in cash, or by certified check for the account of the Federal Maritime Commission, an Equalization Fee in U.S. dollars equal to 50 percent of the total ocean freight rate (as defined in 507.4) on all goods, merchandise, or cargo included and described in such report as bound for Guatemala, either directly or through transshipment. Certified checks must be issued by a bank or trust company incorporated under the laws of the United States, the District of Columbia, or any State of the United States.

§ 507.6 Delinquent reports or fees.

If any "favored carrier" is delinquent in filing any Summary Report of Cargo Carryings in the Guatemala Trade as required by § 507.4, above, or paying any Equalization Fee as required by § 507.5, above, the Commission may enter an Order declaring that no vessel owned, operated, controlled by, or carrying cargo for the account of such "favored carrier" may enter any port of the United States, load cargo in the United States, or exit any U.S. port while carrying cargo which is to be transported directly or indirectly to Guatemala, until such time as all the required reports have been filed, and all of the Equalization Fees due thereon have been paid. If any Equalization Fee is delinquent for more than 15 calendar days, the Equalization Fee Payment Guarantee (Surety Bond or certified check) posted by the carrier may be used to satisfy the amounts due the United States for nonpayment of the Equalization Fees. The balance of any unused portion of a certified check will be returned to the carrier upon proof that the carrier has withdrawn from the trade and all Equalization Fees and Summary Reports have been filed.

§ 507.7 Incomplete, inaccurate or incorrectly completed forms.

Any FMC Form required to be filed by the provisions of this Part which is incomplete, inaccurate, or incorrectly filed or completed when filed, will be rejected by the Commission and be returned to the "favored carrier." Any FMC Form which is rejected pursuant to this section the "favored carrier" will be subject to will be deemed not to have been filed and any penalties for violation of this Part until a complete, accurate and correctly completed FMC Form is correctly filed with the Commission.

§ 507.8 Additional remedies.

Whoever fails to comply with the provisions of this part shall be subject to all applicable remedies and penalties provided by law, in addition to those provided by this part.

§ 507.9 Effective date.

The rules of this Part shall become effective 12:01 a.m., Eastern Standard Time, January 13, 1978.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-35645 Filed 12-13-77;8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 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.

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

FOR FURTHER INFORMATION CONTACT:

Robert S. Powers, Cable Television Bureau, 202-632-9797.

SUPPLEMENTAL INFORMATION:

Adopted: November 30, 1977.

Released: December 8, 1977.

In the matter of amendment of Part 0 of the Commission's rules to delegate to the Chief, Cable Television Bureau, authority to extend application of certain rules to prevent interference to aeronautical radio services.

1. Rules adopted in Docket 21006 on July 27, 1977, provided for the imposition of certain minimum frequency offsets between cable television carriers and aeronautical radio navigation and communication services operating in the vicinity of the cable television system.[1] In general, these offsets are imposed when any part of the cable system is within 111 km (60 nautical miles) of the aeronautical radio service. However, in our Report and Order (supra) we recognized that in some instances the Federal Aviation Administration or another federal government agency (Department of Defense) may define for low altitude aeronautical radio services "extended service volumes" extending beyond 111 kilometers.

2. In cases where the services offered within these extended service volumes are intended to be used by aircraft flying at altitudes low enough that interference from a cable television system might occur, we stated that this Commission might increase the area within which cable television systems must adopt frequency offsets. The increased area would cover the extended service volume as defined by the federal agency responsible for the aeronautical radio service.

3. In order to expedite the process, we are by this Order delegating to the Chief, Cable Television Bureau, the authority to extend the application of our frequency offset requirements to cover such extended service volumes of aeronautical radio services.

4. Authority for this delegation of authority and for adoption of the rule set forth in the Appendix is contained in 47 U.S.C. 151, 152, 302, 303, 307, 308, and 309. *Accordingly, it is ordered,* That 47 CFR Chapter I, Part 76 is amended as set forth below.

5. Effective date: This revision of Part 0 becomes effective January 1, 1978.

(Secs. 1, 2, 303, 307, 308, 309, 48 Stat., as amended, 151, 152, 303, 307, 308, 309, Sec. 302, 82 Stat., 290 (47 U.S.C. 151, 152, 302, 303, 307, 308, 309).)

FEDERAL COMMUNICATIONS COMMISSION,[2]
WILLIAM J. TRICARICO,
Acting Secretary.

47 CFR Chapter I, § 0.288 is amended by changing the period at the end of paragraph (x) to a semicolon and by adding a new paragraph (y) to read as follows:

§ 0.288 Authority delegated.

* * * * *

(y) To order cable television system operators to implement frequency offsets described in § 76.610(f) of this chapter in cases where any part of a cable television is (1) more than 111 km distant from a low altitude radio navigation or communication service and (2) within an "extended service volume" defined for such a radio service by the Federal Aviation Administration or other federal government agency.

[FR Doc.77-35699 Filed 12-13-77;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.

[1] Report and Order in Docket 21006, 42 FR 41284, FCC 77-541, released August 8, 1977. The rules adopted in this Report and Order are effective January 1, 1978.

[2] Commissioner Brown not participating.

SUMMARY: Multiple ownership rules regarding regional concentration of control amended on reconsideration to provide that applications involving UHF television stations will be treated on a case-by-case basis, and that AM and FM stations which are licensed to communities which are within 15 miles or within the same urbanized area will be considered as a combination and will be counted as one station.

EFFECTIVE DATE: January 16, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Dennis S. Kahane, Broadcast Bureau, telephone 202-632-9356.

SUPPLEMENTARY INFORMATION:

MEMORANDUM OPINION AND ORDER

Adopted: November 30, 1977.

Released: December 9, 1977.

In the matter of amendment of §§ 73.35, 73.240 and 73.636 of the Commission's rules relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations, Docket No. 20548.

1. The Commission has before it three timely-filed petitions for reconsideration of the "First Report and Order in Docket No. 20548," 63 FCC 2d 824 (1977), filed by (a) Suburban Radio Group, Inc., (b) Town and Country Radio, Inc., and (c) Lares Broadcasters.

2. The "First Report and Order" in this docket (hereafter, "Order") was promulgated to adopt fixed standards by which to measure, and thus disallow, regional concentrations of broadcast media. We stated then, as in the "Notice of Proposed Rule Making" in this docket, 54 FCC 2d 331 (1975), that the envisioned rule would provide "the Commission, and thus applicants before the Commission, with better tools with which to measure the now cloudy area of regional concentration of media control." Our policy of treating all applications involving potential concentrations of control on a case-by-case approach, we found, had "tended to submerge the Commission's policy in this area * * * [and had shown] the need for fixed rules governing concentration." See 42 FR 27971, April 1, 1977.

3. Accordingly, following a thorough review of all comments and reply comments filed in this docket, we adopted rules to prohibit the common ownership, operation, or control of three broadcast stations, where any two are within 100 miles of the third (measured city to city), if there is primary service contour overlap of any of the stations. We stated that whenever both these distance and overlap criteria were not present, we would not, as a general rule, raise a concentration issue; we reserved the right, however, to raise such an issue where specific allegations of fact coming to the Commission's attention raised the possibility that the grant of an application would create a concentration of control and be inconsistent with the public interest.

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 several of our other multiple ownership rules. 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 contract with Dispatch Broadcasting Co., licensee of station WGCD, Chester, S.C. The application covering this transaction was filed on March 1, 1977, and accepted for filing on March 28, 1977. During the interim 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. 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 rules' adoption.

6. Petitioner, Town and Country Radio, Inc. (Town), is an applicant in a mutually-exclusive hearing for an FM construction permit in Suffolk, Va. Town's application was designated for hearing by an Order released on January 3, 1975. A hearing was held on February 6, 1976 and on August 6, 1976. Administrative Law Judge Naumowicz released his Initial Decision denying Town's application and granting the competing application on December 16, 1976. Town had filed exceptions to the Initial Decision with the Review Board, when the Broadcast Bureau moved on April 15, 1977 to dismiss Town's application for non-compliance with the new rules. Town argues that it has expended several tens of thousands of dollars prosecuting its application, and that at no time during the 27 months of the hearing process did any party suggest that the revised rule would apply to Town's application. Town claims that it was denied due process, in that while the Broadcast Bureau was informing the Commission that applications pending on the effective date would not be exempted from compliance, the Bureau failed to notify Town of this in the hearing. Accordingly, Town seeks exemption from compliance with the new rules for all applications which have progressed through the hearing process to the point where the hearing record has been closed and an Initial Decision has been issued.

7. Petitioners, Wilfredo A. Soto, Jesus M. Soto, and Ricardo L. Segarra, d/b/a Lares Broadcasters, are similarly situated.[1] Lares Broadcasters is an applicant in a comparative hearing for a new standard station to serve Lares, Puerto Rico. The petitioner and the competing applicant, Jose David Soler and Luis A. Velez, d/b/a Radio Lares, executed an agreement of merger of their interests into a new corporation on February 28, 1977, and on March 3, 1977, and again on March 23, 1977, filed a request for approval of the agreement with the Administrative Law Judge. Lares Broadcasters seeks exemption from the new rules, or in the alternative a waiver of the rules. One of Lares Broadcasters' partners has interests in a standard station in Caguas, P.R., and in an FM station in San Juan, P.R. The primary service contours of the FM station and the proposed Lares AM station would overlap. Lares Broadcasters argues that San Juan and Caguas should be considered as one market, a finding which would eliminate an automatic bar to the granting of the application on regional concentration grounds.

DISCUSSION

8. We believe that our new rules must become effective on a date certain, and that where a 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 Commission at the time of grant. 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 Lares may wish to make, or any requests for waivers, should be made within the context of the hearing proceeding.[2]

9. With respect to Suburban's petition, we believe petitioner had more than adequate notice of the Commission's intent to promulgate rules in the area of regional concentration of control. The "Notice of Proposed Rule Making", *supra*, was adopted July 16, 1975 and released 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

See footnotes at end of article.

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 20548)" on February 7, 1977 (Report No. 12677; Mimeo No. 77817) describing fully and completely the new regional concentration of control rule.[3] Thus, public notice of the exact 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 broadcast stations in 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 adhere to the precedents of UHF determinations made under the one-to-a market proscriptions of the multiple ownership rules, and 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 in 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 multiple ownership regulation 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.[4] 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).[5, 6]

13. As we have stated earlier, our regional concentration rule has two 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 combinations as defined in the preceeding 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 Wilfredo A. Soto, Jesus M. Soto, 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.

16. *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.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS[7] COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

Part 73 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows: Sections 73.35, 73.240, and 73.636 are amended by the addition of the identical new Note 11, which reads as follows:

§ 73.____ **Multiple ownership.**

* * * * *

NOTE 11: For the purposes of the three station regional concentration provision of this section, (a) an application raising a regional concentration of control issue which involves overlap of or by one or more UHF television stations will be treated on a case-by-case basis, consistent with the precedents of UHF determinations made under the one-to-a-market proscriptions of this section, and (b) standard and FM broadcast stations licensed to communities which are within 15 miles (city reference point to reference point) and/or within the same urbanized area (as mapped by the U.S. Bureau of the Census), will be considered as a combination and counted as one station.

* * * * *

FOOTNOTES

[1] Group One Broadcasting Co. (Group One) filed a "Partial Opposition to Petitions for Reconsideration" filed by Town and Country Radio, Inc., Suburban Radio Group, Inc., and Lares Broadcasters. Group One states that it does not object to the granting of waivers, but opposes "any blanket extension of the grandfathering provision." Group One states that its "particular concern" is the application of Great Trails Broadcasting Corporation to modify the facilities of station WJAI(FM), Eaton, Ohio. Group One is the licensee of stations WONE and WTUE(FM), Dayton, Ohio. An untimely opposition to the Lares reconsideration petition was also filed by Pepino Broadcasters, Inc., licensee of station WFBA, San Sebastian, Puerto Rico, an intervenor in the Lares, Puerto Rico hearing.

[2] It should be noted that the application of Lares Broadcasters may not be barred by the regional concentration rule, see paragraph 12.

[3] The Commission originally adopted the present regional concentration of control rule and a minority stockholder rule on February 3, 1977. The Report and Order was never released, as the Commission determined to request further comments with respect to minority ownership. The Commission thereafter on March 9, 1977, adopted the "First Report and Order" in this docket, identical with respect to regional concentration as discussed in the February 3, 1977 Public Notice, and a "Further Notice" with regard to minority ownership.

[4] U.S. Bureau of the Census, Census of Population: 1970, Vol. 1. "Characteristics of the Population," Part A, "Number of Inhabitants." U.S. Gov't. Printing Office, Washington, D.C., 1972. (Future Editions will supersede.)

[5] This is consistent with § 73.203(b) of our rules which allows an FM channel assigned to a community listed in the Table of Assignments (§ 73.202) to be moved to any unlisted community which is located within 10 miles if the channel assignment being moved is a Class A channel and 15 miles if the channel is a Class B/C channel. For administrative convenience we have chosen the 15 mile criterion standard regardless of class for the purposes of finding an AM–FM combinat' n in this rulemaking.

[6] The reference points which shall be used are those listed in the Index to "The National Atlas of the United States of America," United States Department of the Interior, Geological Survey, Washington, D.C., 1970. (Future editions will supersede.) In the case of any community of license which is not referenced by the National Atlas, such as a newly established community, the point of reference shall be the main post office until such town is referenced.

[7] Commissioner Brown not participating.

[FR Doc.77-35703 Filed 12-13-77;8:45 am]

See footnotes at end of article.

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSEP-2, Notice No. 3]

PART 209—RAILROAD SAFETY ENFORCEMENT PROCEDURES

Final Rule; Correction

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Corrections to rulemaking document.

SUMMARY: FR Doc. 77-31173, published at 42 FR 56742-56748 (October 28,

1977), is corrected by striking the section designation appearing "§ 210.9" and inserting in its place "§ 209.9" (42 FR 56745, column 2).

FOR FURTHER INFORMATION CONTACT:

Grady Cothen, Jr., Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-8285.

Issued in Washington, D.C. on December 9, 1977.

RAYMOND K. JAMES,
Chief Counsel.

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

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

PART 1127—STANDARDS FOR DETERMINING COMMUTER RAIL SEVICE CONTINUATION 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 Commuter Standards which were effective August 3, 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. 20036, area code 202-254-7552.

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 § 1127.5 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 by ConRail in the formulation of these interpretations. The issues 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 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 signalling (ABS signal system) to a single track railroad signalled for operations in both directions (TCS signal system). This modification would permit reduction in ongoing track maintenance costs. However, in order for one track to be eliminated, the signal system on the remaining track would have to be modified. In addition, switches located on the track to be removed, which provide access to freight industries, must be relocated to the remaining track. The one-time costs (of making these facility modifications and relocations) 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 facilities 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 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 facilities 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, and ConRail is incorrect in stating that such modification costs should not be credited against property and facility valuations for the purpose of computing net return on investment. The reason for the difference lies in the different theories which underlie the computation of operating costs, pursuant to § 1127.5, and the determination of the value of the properties, pursuant to § 1127.6. The assignation of costs, pursuant to § 1127.5, is based on use. Section 1127.5(a) states: "To the maximum extent practicable, the directly identifiable and common costs assigned to the commuter service shall be developed from a facilities utilization plan and a manpower utilization plan * * *." The determination of which properties are to be included in the properties on which a reasonable return is allowed is based 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 "[i]n developing 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, fully-disributed costs." (41 FR 32546, 32549). In an interim report, issued June 30, 1976 (41 FR 26936), prior to the final adoption of the standards, the Office stated:

> It should be emphasized that the proposed standards adopt in large measure the cost development techniques suggested by NJDOT. The standards require the railroad and the prospective subsidizer to develop a comprehensive facilities plan and * * * will also provide for a manning table. The proposed standards also adhere to the strict avoidability concept in the valuation of properties (41 FR 20108) because the return on that valuation is a fixed cost. In other instances, the standards depart from a strict avoidability principle to allocate to the subsidizer a share of the common costs which would vary with the continuation of commuter service (41 FR 20107).

Since operating costs are based on use—those properties used or useful in the provision of the service—the question of what savings or modification costs would attend upon the termination of the commuter service has no bearing on the actual costs of providing the service.

However, since the properties which are to be included for purposes of determining the reasonable return on investment are those properties which could be disposed of if the service were discontinued, the question of modification costs incurred in conjunction with the disposal of the properties is relevant. ConRail is incorrect in stating that there is no basis in the standards for such a conclusion. All of the standards promulgated by the Office have been based on the same basic theories. The regional standards (Ex Parte No. 293 (Sub-No. 2); 49 CFR 1123.5) provide that the value of the properties used in the regional freight service subsidy program shall be "* * * their net liquidation value for their highest and best use, * * * determined by computing their current market value for other than rail transportation purposes, less all costs of dismantling and disposition of improvements necessary to make the remaining property available for its highest and best use." (49 CFR 1125.6 (b).) Similarly, the national freight service subsidy standards, issued jointly by the Commission and the Office (Ex Parte No. 274 (Sub-No. 2); 49 CFR Part 1121), provide that the value of the properties used in the program shall be "* * * the net liquidation value, for their highest and best use for non-rail purposes * * * determined by computing the current appraised market value of such properties for other than rail transportation purposes, less all costs of dismantling and disposition of improvements necessary to make the remaining properties available for their highest and best use * * *." (49 CFR 1121.43(c).)

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

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 for the provision of rail 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 over 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 replaced by package boilers or furnaces to 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 consumed in operating the alternative heating system."

In its second example, with regard to operations, New Jersey states that, as a consequence of trackage and/or signal 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 are premised upon the avoidable costs 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.* New Jersey cites an example which 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 commuter operations 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 any facility whose avoidability is not contingent on the elimination of passenger service should not be included in the determination of avoidable costs to passenger service." As in the examples 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 that service.

ConRail, in its response to this point, has stated that, "* * * in the event that excess rail facilities are excluded from return-on-value payment, ConRail must insist that it has the right unilaterally to remove any such rail properties and make necessary modifications to conform schedules to the modified plan." ConRail also contends that any resultant 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 subsidizer 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 plant, is one on 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 a facility is 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 railroad 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 such increased costs are incurred on 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 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 remaining properties 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 as of April 1, 1976, determined for their highest and best use for other than rail transportation purposes, plus the value of additions and betterments after that date for commuter service, less depreciation accrued from that date." 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 the income stream generated by the liquidation of all rail properties in an orderly 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 the value of properties used in commuter service be paid. 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 positions it has asserted or may hereafter assert" in the Special Court valuation proceedings.

Upon consideration of ConRail's position, the Office affirms its ruling regarding modification costs. Under § 1127.5(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 cost of modifying the properties to 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 such hypothetical modification costs 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 valuing the property acquired from the trustees of the debtor estates and not with additions or betterments thereto, much less hypothetical modifications thereof.

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.

Interpretation No. 2—Issued June 17, 1977

By a letter, dated March 14, 1977, the State of New Jersey Department of Transportation requested an interpretation of § 1127.3(c) of the standards with regard to whether or not a subsidizer making an offer of subsidy for the second subsidy year had to include in that offer a 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 would have to make two subsidy payments in the same month, the regular payment under the present agreement, and the advance payment for the subsequent year's agreement.

Section 1127.3(c)(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. The language refers to the first month of subsidized service rather than the first month of each subsidy year. In other words, the requirement that the offer include a subsidy payment for the first month applies only to the offer for the first year of subsidized operation. The offer for subsequent years does not have to include a payment for the first month of service, since that requirement has already been met.

Interpretation No. 3—Issued June 17, 1977

On April 18, 1977, the State of New Jersey, through its consultant, L. E. Peabody Associates, requested the Rail Services Planning Office (the Office) to issue an interpretation of § 1127.3 of the standards, as to whether or not the Consolidated Rail Corp. (ConRail) is required by that section to provide the subsidizer with a subsidy estimate delineated by line segment and/or service area. ConRail filed a response on April 28, 1977.

New Jersey cites the language in § 1127.3(a), which provides that a notice of intention shall specify:

> (1) All modifications in the fares to be charged and existing level of service, including changes in routes, schedules, train seating capacity, performance standards, equipment units, and such other dimensions of service as the subsidizer may specify.

New Jersey interprets the words "such other dimensions of service as the subsidizer may specify" as follows: "Clearly, one dimension of the service for which NJDOT intends to offer financial assistance is the designated service areas to be covered and specific activities in the service areas." Relying on the language of § 1127.3(b) to the effect that "[t]he railroad shall compute a subsidy estimate predicated on the information contained in the Notice * * *", New Jersey concludes that ConRail would be required to provide a subsidy estimate delineated by line segment and/or service area if the subsidizer so specifies. ConRail does not believe that this is a proper interpretation of the sections involved.

In support of its requested interpretation, New Jersey states that, given the substantial cost of supporting 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 presently existing commuter 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."

The Office is sympathetic to New Jersey's desire to obtain information on which to base decisions as to which components of its commuter service 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 believes that 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 may travel a certain distance out of the city and split, with some cars going to one destination and some to another. The work involved in apportioning the costs in such circumstances would be substantial 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, L. E. Peabody & Associates, Inc., requested the Rail Services Planning Office (the Office) to issue

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 passenger services, plus an allowance for overhead as negotiated by the parties. If the parties are unable to agree on an overhead allowance, the methodology for apportioning common 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?
2. What guidelines should be followed in determining the overhead allowance applicable to incidental or 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 pursuant to § 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 insist 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 specifically that "[t]he 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." It is inevitable 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 one 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 those who must work with the standards, the Office will be inclined to handle such matters by interpretation whenever possible.

With regard to ConRail's second point, while the Office agrees 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 the negotiations. The Office does, however, reserve the right to defer such a request should it feel a ruling would impede negotiations.

Turning to the questions raised by MDOT, since the Baltimore/Washington commuter service involved on the order of only 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 conclusion would frustrate 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. Under MDOT'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 methodology.

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 Federally funded portion of rail service continuation payments to be made under § 1127.8 of the standards, and
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 § 1127.8(g) of the standards which provides:

The amounts of interest accrued on overdue payments under § 1127.3(e) shall be excluded from avoidable 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, points out that "Federal grants under section 17 of the Urban Mass Transportation Act (UMT Act) have been delayed by the absence of certifications from the Department of Labor of 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 before 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 a section 17 grant is released to a transit property, 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 by grantees for commuter rail operating subsidies.

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

be made in advance in accordance with § 1127.8(h) which provides in pertinent part:

> To assist the subsidizer in making the monthly interim subsidy payments required under § 1127.3(e), the Secretary shall pay 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 bar the inclusion in the determination of avoidable costs of the cost of 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 consultants L. E. Peabody & Associates, Inc., requested the Rail Services Planning Office (the Office) to interpret § 1127.5 (k) 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 developed 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 for which 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 60 days from the close of the subsidy period in which to file a final financial status report and the parties have another 60 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 notes that while the railroad's 1977 Form R–1 will not be available until around the end of March 1978, 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 to the retroactive 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 to defer the adjustment of the final subsidy payment until the Form R–1 data is available for the subsidy period. In the absence of an agreement, however, the standards in effect require that the final subsidy payment be adjusted within 120 days of the end of the subsidy period. Thus, under the standards, the fringe benefit percentage for the 6-month period ending June 30, 1977 should be computed using 1976 Form R–1 data. On the other hand, the fringe benefit percentage for the succeeding subsidy period (July 1–December 31, 1977), should be based upon 1977 R–1 data. (That is, the adjustment need not be made for four months i.e., circa April 30, 1978, and by that time the 1977 R–1 data would be available.

The Office would point out that under NJDOT's proposal if a 6-month subsidy period ended March 31, while the parties would have immediate access to data for the first half of the subsidy period (October–December), they would have to wait a year to use data for the last half of the subsidy period (January–March). The standards do not contemplate such an extended delay in adjusting the final subsidy agreement unless the parties were to so agree.

INTERPRETATION NO. 7—ISSUED NOVEMBER 14, 1977

By letter dated August 15, 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 construe § 1127.4 (a)(2) and (b)(2) of the commuter standards concerning revenues, rentals, and rental income generated at fixed facilities. NJDOT points out that some fixed facilities generate income 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 an avoidability test 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 is inapposite. Amtrak owns the Penn Station terminal and station facilities. ConRail states that certain Penn Station revenues are distributed under the terms of the Joint Facility agreement between Amtrak and the Long Island Railroad, while the balance of the rentals are distributed as negotiated by ConRail and Amtrak. In these 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 apportionments.

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.

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[7035-01]

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1288]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized to Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. at DeKalb, Ill.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1288).

SUMMARY: The line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (MILW) serving DeKalb, Ill., is inoperable because of track conditions between DeKalb and Kirkland, Ill., thereby depriving industries located adjacent to the MILW tracks at DeKalb of railroad service. Service Order No. 1288 author-

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.

DATES: Effective 12:01 a.m., December 9, 1977. Expires 11:59 p.m., May 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

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 making this order effective upon less than thirty days' notice.

It is ordered, That Service Order No. 1288 is added to read as follows:

§ 1033.1288 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 carrier's disability, 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, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Robert S. Turkington and Leonard J. Schloer.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-35697 Filed 12-13-77;8:45 am]

[3510-12]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Documented Gear Losses; Reimbursement

AGENCY: National Oceanic and Atmospheric Administration/Commerce (NOAA).

ACTION: Interim final amendment to regulations.

SUMMARY: This amendment clarifies and supersedes an amendment published December 5, 1977 (42 FR 61471) which provided a mechanism through compulsory arbitration by which U.S. fishermen can obtain fair and speedy reimbursement for documented gear losses caused by foreign fishing vessels operating inside the fishery conservation zone under permits issued by the United States.

DATES: Comments must be received no later than midnight, December 29, 1977, in order to be considered. This amendment is effective December 9, 1977, on an interim basis.

ADDRESS: Comments may be submitted in writing to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Richard H. Schaefer, Chief, Fisheries Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone 202-634-7454.

SUPPLEMENTARY INFORMATION: On December 5, 1977, NOAA published an amendment to its regulations in order to provide a mechanism through compulsory arbitration by which U.S. fishermen can obtain fair and speedy reimbursement for documented gear losses caused by foreign fishing vessels operating inside the fishery conservation zone under permits issued by the United States. The amendment was effective immediately on an interim basis and comments were solicited prior to the promulgation of a final amendment. Subsequent to such publications it has been brought to our attention by certain members of the fishing industry affected by the amendment that the amendment is not clear as to the obligation of the owner, operator, or agent of the concerned foreign fishing vessel to appear at arbitration proceedings and be bound by the decision of the arbitrator. Furthermore, it was not clear that in the case of claims under $25,000 the matter would go to binding arbitration only if requested by either party involved in the dispute. The purpose of this amendment is to clarify these matters and to slightly modify the provision dealing with the location of the arbitration proceedings so as to allow the proceedings to be conducted anywhere in the United States rather than at a location close to the situs of the alleged loss or damage. Since the reasons for this amendment were sufficiently set forth in the original publication and the reasons for immediate implementation on an interim basis have not changed, the dates for implementation and comment set forth in the original publication, remain the same.

Signed at Washington, D.C., this 9th day of December, 1977.

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

Amend 50 CFR 611.11 by deleting paragraph (d) and substituting a new paragraph (d) as follows:

§ 611.11 Gear conflicts.

* * * * *

(d) Claims concerning the loss of or damage to the fishing vessel, fishing gear or catch of a U.S. citizen which may have been caused by a foreign fishing vessel fishing pursuant to the Act may be resolved as follows:

(1) Claims involving loss or damage of property amounting to $25,000 or less must be submitted to binding arbitration whenever demanded by the U.S. claimant or the owner or operator of the foreign fishing vessel which may have caused the loss or damage. If arbitration is demanded, both the U.S. claimant and the owner or operator of the foreign vessel, or their agent, must appear at the arbitration proceedings and be bound by the decisions of the arbitrator.

(2) Claims involving loss or damage of property amounting to over $25,000 must be submitted to binding arbitration whenever demanded by the U.S. claimant. If arbitration is demanded by the U.S. claimant, the owner or operator of the foreign vessel, or their agent, must appear at the arbitration proceedings and the parties will be bound by the decisions of the arbitrator.

(3) A demand for arbitration must be made in writing to the other party. Any arbitration proceeding under this para-

graph shall be conducted according to the Commercial Arbitration rules of the American Arbitration Association, and shall be conducted in the United States. The list from which arbitrators are selected will, whenever possible, include individuals with knowledge in fishery matters or admiralty law.

[FR Doc.77-35694 Filed 12-13-77;8:45 am]

[4810-35]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

PART 205—WITHDRAWAL OF CASH FROM THE TREASURY FOR ADVANCES UNDER FEDERAL GRANT AND OTHER PROGRAMS

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule revises the regulations governing the withdrawal of cash from the Treasury for advances under Federal grant and other programs. These regulations will improve the administration of advances under Federal grant and other programs. At the same time, the detailed procedural instructions contained in Treasury Department Circular No. 1075 have been revised and are included in Volume I of the Treasury Fiscal Requirements Manual.

EFFECTIVE DATE: December 14, 1977.

FOR FURTHER INFORMATION CONTACT:

D. H. McGrath, Jr., Director, Special Financing Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226, 202-566-5125.

SUPPLEMENTARY INFORMATION: On November 24, 1976, the Department of the Treasury published a document in the FEDERAL REGISTER (41 FR 51847) proposing to amend and revise existing Treasury regulations governing the withdrawal of cash from the Treasury for advances under Federal grant and other programs as published in 31 CFR 205 (also appearing as Treasury Department Circular No. 1075, Third Revision).

The primary reason for this revision is to formally establish the Letter of Credit—Treasury Regional Disbursing Office (RDO) System, in addition to retaining the existing Letter of Credit—Federal Reserve Bank (FRB) System, as a means of advancing funds. The particular letter-of-credit system to be used is at the discretion of the Department of the Treasury. The minimum amount necessary where the letter-of-credit method of advancing funds shall be used is decreased to $120,000 from $250,000, regardless of which system is used. In addition, this revision removes from the existing circular detailed procedural instructions which appear in Volume I of the Treasury Fiscal Requirements Manual.

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 adequate lead time when requesting Federal funds. Regarding additional paperwork, the form utilized for requesting funds under the Letter of Credit—Treasury RDO 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 inequities to some recipients and/or to the Department of the Treasury. Therefore, this term is to be defined by the Federal program agency in light of its programs and recipient organizations, yet compatible with Treasury's interpretation.

It also was recommended that Treasury establish criteria requiring the refunding of excessive balances of Federal funds. Accordingly, 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 receiving annual 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(e) is reworded to prevent misinterpretation.

C. The reference to Federal Management Circular 74-7 in section 205.6 is changed to read: "OMB Circular A-102 revised."

D. The reference to the inflation impact determination 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:

Sec.

205.1 Purpose.
205.2 Scope of regulations.
205.3 Definitions.
205.4 General regulations.
205.5 Irrevocability of the letter of credit.
205.6 Contract or grant provisions.
205.7 Termination of advance methods of financing grant programs.
205.8 Responsibilities of Federal program agencies.
205.9 Implementing instructions.
205.10 Waivers.

AUTHORITY: 5 U.S.C. 301; sec. 203, 82 Stat. 1101 (42 U.S.C. 4213).

SOURCE: Department Circular 1075, Fourth Revision, FR 42 62927, December 14, 1977.

§ 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. (Advance payments on procurement contracts are also subject to the provisions of the Federal Procurement Regulations regarding contract financing which appear at 41 CFR 1-30 and the provisions of the Armed Services Procurement Regulations regarding defense contracting which appear at 32 CFR 163.) The regulations in this part are not generally applicable to loan programs. However, the letter-of-credit method should be considered by Federal program agencies for application to loans carrying interest rates which are lower than Treasury borrowing rates.

(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-

ered by the Department of the Treasury if requested by a Federal program agency.

§ 205.3 Definitions.

For the purpose of this part:

(a) *Recipient organization* means an organization outside the Federal Government (including any State and local government, educational institution, international organization and any other public and private organization) receiving cash advances under Federal grant and other programs.

(b) *Primary recipient organization* means a recipient organization receiving cash advances directly from the Federal Government.

(c) *Secondary recipient organization* means a recipient organization receiving cash advances from a primary recipient organization.

(d) *Direct Treasury check* means the method whereby payment is made directly to a recipient organization by Treasury check authorized by the responsible officer of the Federal program agency.

(e) *Letter of Credit—Treasury Regional Disbursing Office System* means the system whereby the letters of credit are maintained and serviced by Treasury disbursing centers and Treasury regional disbursing offices.

(f) *Letter of Credit—Federal Reserve Bank System* means the system whereby the letters of credit are maintained and serviced by Federal Reserve banks and branches.

(g) *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.

(h) *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.

(i) *Consolidation of funding to the same recipient organization under one letter of credit* means the procedure whereby, within a single accounting entity, the Federal program agency combines all advance funding to the same recipient organization under one letter of credit. It achieving this objective, the Federal program agency shall include all advance funding to the recipient organization including that which ordinarily would not qualify because it does not meet the criteria established for the letter-of-credit method.

(j) *Single letter-of-credit technique* means the procedure whereby numerous letters of credit issued by different accounting entities within the same Federal department to State agencies, local government agencies, or recipient institutions are replaced by one centrally administered single letter of credit issued to one central organization within that State, local government, or recipient institution.

(k) *Working capital advance basis* means the procedure whereby funds are advanced to the recipient organization to cover its estimated disbursement needs for a given initial period. Thereafter, the recipient organization would be reimbursed for the amount of its actual cash disbursements. The amount of the initial advance shall be geared to the reimbursement cycle so that after the initial period the payments are approximately equal to the average amount of the recipient organization's unreimbursed program payments.

§ 205.4 General regulations.

(a) Cash advances to a recipient organization shall be limited to the minimum amounts needed and shall be timed to 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 as close as is administratively feasible to the actual disbursements by the recipient organization for direct program costs and the proportionate share of any allowable indirect costs.

(b) If a Federal program agency has, or expects to have, a continuing relationship with a recipient organization for at least one year, involving annual advances aggregating at least $120,000, the agency shall use the letter-of-credit method. Letters of credit will be established with the Treasury disbursing centers and Treasury regional disbursing offices (Letter of Credit—Treasury Regional Disbursing Office System) or the Federal Reserve banks and branches (Letter of Credit—Federal Reserve Bank System) as determined by the Commissioner, Bureau of Government Financial Operations, or his designee.

(c) When annual advances to a recipient organization aggregate less than $120,000 or there is not a continuing relationship for at least one year, the cash advances shall ordinarily be made by the direct Treasury check method. Such cash advances shall be made only in amounts necessary to meet current disbursement needs and shall be scheduled so that the funds are available to the recipient organization only immediately prior to their disbursement by the organization.

(d) Each Federal program agency shall work toward the objective of the consolidation of funding to the same recipient organization under one letter of credit. Also, the single letter-of-credit, checks paid, and the delay of drawdown techniques of withdrawing funds under the letter-of-credit method shall be employed wherever feasible under the direction and approval of the Department of the Treasury.

(e) Cash advances made by primary recipient organizations to secondary recipient organizations shall conform substantially to the same standards of timing and amount as apply to cash advances by Federal program agencies to primary recipient organizations. Federal program agencies shall require primary recipient organizations to develop procedures whereby secondary recipient organizations can obtain funds from the primary recipient organization as needed for disbursement.

§ 205.5 Irrevocability of the letter of credit.

A letter of credit is irrevocable (the equivalent of cash available to the recipient organization) to the extent the recipient organization has obligated funds in good faith thereunder in executing the authorized Federal program in accordance with the grant, contract, or other agreement.

§ 205.6 Contract or grant provisions.

Use of letters of credit shall be covered by a clause in the grant, contract, or other financing agreement whereby the recipient organization commits itself to (a) initiating cash drawdowns only when actually needed for its disbursements, (b) timely reporting of cash disbursements and balances as required by the Federal program agency, and (c) the imposition of the same standards of timing and amount upon any secondary recipient organizations including the furnishing of reports of cash disbursements and balances, with the understanding that failure to adhere to these provisions may cause the unobligated portion of the letter of credit to be revoked by the Federal program agency or by the Department of the Treasury. The financial management system of the recipient organization shall provide for effective control over and accountability for all Federal funds as stated in OMB Circular A–102 revised for State and local governments and OMB Circular A–110 for institutions of higher education, hospitals, and other nonprofit organizations.

§ 205.7 Termination of advance methods of financing grant programs.

When a recipient organization receiving cash advances by a letter of credit or by direct Treasury check method has demonstrated to a Federal program agency an unwillingness or inability to establish procedures that will minimize the time elapsing 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.

§ 205.8 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

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 for approval. Also, each Federal program agency shall furnish the Department of the Treasury such periodic reports showing cash balances in the hands of the recipient organizations and results of reviews of the financial practices of recipient organizations as are required by the Commissioner, Bureau of Government Financial Operations, or his designee.

§ 205.9 Implementing instructions.

The Commissioner, Bureau of Government Financial Operations, will issue implementing instructions for the regulations established by this part in Volume I of the Treasury Fiscal Requirements Manual.

§ 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.

Dated: October 14, 1977.

PAUL H. TAYLOR,
Acting Fiscal
Assistant Secretary.

[FR Doc.77–35695 Filed 12–13–77;8:45 am]

proposed rules

[6320–01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 298]

[EDR 341; Docket No. 31397; Dated: December 8, 1977]

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 air carriers. The notice is in response to a petition by nine registered all-cargo commuter carriers.

DATES: Comments by: January 18, 1978. Reply comments by: February 2, 1978. 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:

Simon J. Eilenberg, Office of the General Counsel, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202–673–5442.

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 ben 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 Commuter Air Carriers,[1] 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.[2]

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 commuters. 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 in short-haul markets, it supports the petition only on the condition that the all-cargo air taxis be made subject to sections 403 and 404 of the Act, which require the filing of tariffs, prohibit rebates, and establish requirements for service and reasonable rates. To do otherwise, Airborne argues, is unjustly discriminatory against air freight forwarders. Federal Express Corporation recommends that the proposal be expanded to authorize all-cargo aircraft having a miximum payload capacity of 42,000 pounds, and that a procedure be adopted for restricting the use of aircraft with a payload capacity in excess of 7,500 pounds where there is a harmful adverse impact on certificated all-cargo service.

Several direct air carriers, including supplemental, scheduled, and local service carriers, filed answers in opposition to the petition. They argued that increasing the weight limitation of aircraft available for the all-cargo taxis would cause diversion of freight traffic from the certificated carriers, which already have excess freight capacity. These carriers also contended that there are insufficient facts in the petition on which to base such a broad exemption under section 416 of the Act, stating that an evidentiary hearing is needed to develop these facts. Aloha Airlines argued that the larger aircraft, if authorized, should not be permitted to operate in Hawaii because of the special circumstances of that market and its certificated carriers. Wien Air Alaska and Reeve Aleutian Airways argued that, for the same reasons, air taxi operations with larger aircraft within the state of Alaska should also be excluded.

Upon consideration, the Board has decided to institute a rulemaking proceeding to consider the amendment to the air taxi regulations requested by petitioners.[3] In commenting on deregulation legislation pending before the Congress this year, the Board has supported proposals to increase the aircraft weight limitation for all air taxi operations to either 16,000 or 18,000 pounds maximum payload capacity, excluding Alaska.[4] Commuter carrier and air taxi service has grown substantially since the present aircraft restrictions were adopted, and has made an increasing contribution in linking small and rural communities with the certificated air network, as both the local service carriers and the trunklines have found such low-traffic generating points uneconomic. While there may be some overlap with markets served by the local service or the supplemental carriers, it is our tentative conclusion 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 services 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

See footnotes at end of article.

legislation obviously contemplates free entry of all-cargo service carriers into any domestic market, regardless of the size of aircraft used, it has effectively pulled the rug out from under the opponents in this proceeding to the proposed increase in the size of air taxis used for domestic all-cargo service.

It is the Board's tentative conclusion that there is a continued need for all-cargo air taxi operations to be governed by our present regulations, using the Board's exemption authority under section 416 of the Act, at least pending the outcome of further deregulation legislation, since only those air taxis operating as commuter carriers would initially be eligible to apply for the new certificate. Nor does the amendment affect the problem, which is the subject of this petition, of the aircraft size available for air taxis providing nonscheduled all-cargo service. Comment, however, is invited specifically on this issue.

Federal Express Corporation has suggested that the Board grant ad hoc waivers of the existing weight limitation while this rulemaking is pending. However, until this rulemaking is concluded we do not believe that its outcome should be prejudiced by adoption of any special waiver policy seeking to avoid the limitations imposed on air taxis under the present rule.

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,[6] 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 (i) of § 298.2 would be revised to read as follows:

* * * * *

(i) "Large aircraft" means:

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

* * * * *

(l) "Maximum payload capacity" means * * * : *Provided further, however,* that for any aircraft used solely in all-cargo service under the exemption provided by this part, the maximum payload capacity shall be 18,000 pounds, based upon an aircraft having a maximum zero fuel weight of 55,000 pounds or less, or any aircraft developed subsequent to September 15, 1977 which has a higher zero fuel weight, but only a designed maximum payload of 18,000 pounds or less.

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 reregister 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 §§ 298.2(i) and 298.2(l) 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 as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Secs. 204, 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 771 (49 U.S.C. 1324, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-35688 Filed 12-13-77;8:45 am]

See footnotes at end of article.

Footnotes

[1] Joining in the petition are Blackhawk Airways, Burl-Air Freight, Great Western Airlines, Meridian Air Cargo, Midwest Air Charter, Pinehurst Airlines, Sedalia-Marshall-Boonville Stage Lines, Inc., Summit Airlines, and Viking International Airlines.

[2] Answers were filed by: Greater Des Moines Chamber of Commerce Federation, The Boston Parties (Massachusetts Port Authority; Greater Boston Chamber of Commerce), Wien Air Alaska, Commuter Airline Association of America, Federal Express Corp., Eastern Air Lines, Aloha Airlines, Airborne Freight Corp., Iowa Department of Transportation, Emery Air Fregiht Corp., Reeve Aleutian Airways, Flying Tiger Line, Evergreen International Airlines, and Trans International Airlines. Informal correspondence commenting on the petition was received from U.S. Senator Dewey F. Bartlett, Greater Charlotte Chamber of Commerce, U.S. Representative Mickey Edwards, Townsend Engineering Co., Falcon Airways, Greater Scranton Chamber of Commerce, Economic Development Council of Northeastern Pennsylvania, U.S. Representative James R. Jones, U.S. Senator Henry Bellmon, Governor David L. Boren, U.S. Representative Ted Risenhoover, General Electric Nuclear Energy Systems Division, J. L. Brandeis & Sons, District of Columbia Chamber of Commerce, and Mayor Walter W. Lisman. The Department of Transportation filed a Motion for Leave to Submit a Late-Filed Document with its Answer. For good cause shown, the motion is granted. Allegheny Airlines requested that its answer also be accepted late. This request is granted.

[3] On November 1, 1977, the Philadelphia Parties (City of Philadelphia and Greater Philadelphia Chamber of Commerce) filed a Motion for Expeditious Consideration, proposing that "show cause procedures" be used in this case. We are not persuaded that extraordinary rulemaking procedures are warranted here, although we do intend to conduct this proceeding with reasonable dispatch. The Philadelphia Parties' motion is therefore denied.

[4] Presentation of the U.S. Civil Aeronautics Board before the Subcommittee on Aviation, Committee on Commerce, Science and Transportation, U.S. Senate, March 21, 1977 (p. C-13); Presentation of the U.S. Civil Aeronautics Board before the Subcommittee on Aviation, Committee on Public Works and Transportation, U.S. House of Representatives,

[4830-01]

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 new jobs credit was enacted by the Tax Reduction and Simplification Act of 1977. These regulations 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 are proposed to be effective for taxable years beginning after December 31, 1976, and would apply to credit carrybacks from such years.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-101-77), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Robert M. Fowler of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, Attention: CC:LR:2, 202-566-3458, not a toll-free number.

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 Tax Reduction and Simplification Act of 1977 (91 Stat. 141).

The Tax Reduction and Simplification Act of 1977 enacted a new jobs credit. The credit is generally allowed in direct proportion to the net increase in the employment of a business. The Act left several details of the rules relating to the credit to be formulated through regulations. Section 52(b) directs that regulations provide guidelines for determining whether an organization is under common control and the amount of the credit to be allowed each such organization that is under common control. Section 52(c) dictates that regulations explain the effect of an acquisition or disposition on the allowance of the credit. Section 52(h) provides that regulations prescribe rules for determining the amount of the credit for those organizations listed in paragraphs (1), (2), and (3) that are similar to the rules provided under section 46(e). Section 280C requires that the taxpayer's deduction for employee wage or salary expenses must be reduced by the amount of the new jobs credit.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations was Mr. Robert M. Fowler of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the proposed regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

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

Paragraph 1. New §§ 1.52-1, 1.52-2, and 1.52-3 are added to read 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.

(2) *Example.* Subparagraph (1) of this paragraph may be illustrated by the following example:

Eample. (a) A Company and its three subsidiaries, B, C, and D Companies, are a group of businesses that are under common control. A, B, C, and D have paid out the following amounts in unemployment insurance wages during 1976 and 1977:

	1976	1977	Increase in FUTA wages in 1977 over 1976
A Company	$1,000,000	$1,015,000	+$15,000
B Company	500,000	650,000	+150,000
C Company	600,000	580,000	−20,000
D Company	40,000	100,000	+60,000
Total	2,140,000	2,345,000	+205,000

(b) Since all employees of trades or businesses that are under common control are treated as employed by a single employer, the computations in section 51 are performed as if all the organizations which are under common control are one trade or business. Consequently, the amounts of the total unemployment insurance wages of the group in 1976 (i.e., $2,140,000) and 1977 (i.e., $2,345,000) are used to determine the increase in unemployment insurance wages in 1977 over the 1976 wage base. Since the amount equal to 102 percent of the 1976 unemployment insurance wages ($2,182,800) is greater than the amount equal to 50 percent of the 1977 unemployment insurance wages ($1,172,500), the increase in unemployment insurance wages in 1977 over the 1976 wage base is $162,200 ($2,345,000—$2,182,800). The limitations in section 51(c), (d), and (g) must also be computed as though all the organizations under common control are one trade or business. For purposes of this example, it is assumed that none of those limitations reduce the amount of the increase in unemployment insurance wages. As a result, the amount of the new jobs credit allowed to the group of businesses is $81,100 (50% of $162,200).

(c) The credit is apportioned among A, B, and D Companies on the basis of their proportionate contributions to the increase in unemployment insurance wages. No credit would be allowed to C Company because it did not contribute to the increase in the group's unemployment insurance wages. A Company's share of the credit would be $5,406.66 ($81,100×($15,000÷$225,000 (i.e., $15,000+$150,000+$60,000))), B Company's share would be $54 066.67 ($81,100×($150,000÷$225,000)), and D Company's share would be $21,626.67 ($81,100×($60,000÷$225,000)).

(b) *Trades or businesses that are under common control.* For purposes of this section, the term "trades or businesses that are under common control" means any group of trades or businesses that is either a "parent-subsidiary group under common control" as defined in paragraph (c) of this section, a "brother-sister group under common control" as defined in paragraph (d) of this section, or a "combined group under common control" as defined in paragraph (e) of this section. For purposes of this section and §§ 1.52-2 and 1.52-3, the term "organization" means a sole proprietorship, a partnership, a trust, an estate, or a corporation.

(c) *Parent-subsidiary group under common control.* The term "parent-sub-

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Footnotes—Continued

April 18, 1977 (p. 71); Comments of the U.S. Civil Aeronautics Board on H.R. 8813, The "Air Service Improvement Act of 1977," October 5, 1977 (p. 26).

[5] *Air Line Pilots Association International v. CAB*, 494 F. 2d 1118 (D.C. Cir. 1974).

[6] The text has been changed only to reflect our simultaneous amendment to Part 298, which eliminates the special limitation for air taxis in Hawaii, as explained at p. 2, above.

sidiary group under common control" means one or more chains of organizations 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 the same five or fewer persons. 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. For an illustration of a brother-sister group under common control, see Example (1) of § 1.1563–1(a)(3)(ii).

(e) *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 and also a member of a 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 or 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.

(2) *Actuarial interest.* For purposes of this section, the actuarial interest of each beneficiary of a trust or estate shall be determined by assuming the maximum exercise of discretion by the fiduciary in favor of the beneficiary. The factors and method prescribed in § 20.2031–10 of this chapter (Estate Tax Regulations) for use in ascertaining the value 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 determining 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.

(g) *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, an employer acquires the major portion of a trade or business or the major portion of a separate unit of a trade or business, then both the amount of the unemployment insurance wages and the amount of total wages considered to have been paid by the employer, for both the year in which the acquisition occurred and the preceding year, must be increased, respectively, by the amount of the unemployment 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 separate unit. If the predecessor employer informs the acquiring employer in writing of the amount of the unemployment insurance wages and total wages attributable to the acquired portion of the trade or business that 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 shall be decreased by those amounts. Regardless of whether the predecessor employer so informs the acquiring employer, the predecssor employer shall not be allowed a credit for 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 over the amount of such wages in the calendar year preceding the acquisition.

(b) *Meaning of terms*—(1) *Acquisition.* (i) For the purposes of this section, the term "acquisition" includes a lease agreement if the effect of the lease 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 another 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 lessee has acquired the lessor's trade or business for the period of the lease.

(ii) Neither the major portion of a trade or business nor the major portion of a separate unit of a trade or business is acquired merely by acquiring physical assets. The acquisition must transfer a viable trade or business.

(iii) Subdivision (ii) of this subparagraph may be illustrated by the following examples:

Example (1). R Co., a restaurant, sells its building and all its restaurant equipment to S Co. and moves into a larger, more modern building across the street. R Co. purchases new equipment, retains its name and continues to operate as a restaurant. S Co. opens a new restaurant in the old R Co. building. S Co. has merely acquired the old R Co. assets; it has not acquired any portion of R Co.'s business.

Example (2). The facts are the same as in *Example (1)*, except that R Co. also sells its name and goodwill to S Co. and ceases to operate a restaurant business. S Co. operates its restaurant using the old R Co. name. In this situation, S Co. has aquired R Co.'s business.

(2) *Separate unit.* (i) A separate unit is a segment of a trade or business capable of operating as a self-sustaining enterprise with minor adjustments. The allocation of a portion of the goodwill of a trade or business to one of its segments is a strong indication that that segment is a separate unit.

(ii) The following examples are illustrations of the acquisition of a separate unit of a trade or business:

Example (1). 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 operations to the 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 considered to have acquired a separate unit of M Corp.'s business for the period of the lease.

Example (2). (a) The P Co. is engaged in the operation of a chain of department stores. There are eight divisions, each division is located in a different metropolitan area of the country, and each division operates under a different name. Although certain buying and merchandising functions are centralized, each division's day-to-day operations are independent of the others. The Q Corp. acquires all of the physical and intangible assets of one of the divisions, including the division's name. Other than making those minor adjustments necessary to give the division buying and merchandising departments, 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.

(b) The facts are the same as in (a) above, except that Q Corporation buys the division merely to obtain its store locations. Before the Q Corporation takes over, the division liquidates its inventory in a going-out-of-business sale. The Q Corporation has merely acquired assets in this transaction, not a separate unit of P Company's business.

Example (3). The R Company processes and distributes meat products. Both the processing division and the distributorship are self-sustaining, profitable operations. The acquisition of either the meat processing division or the distributorship would be an acquisition of a separate unit of the R Company'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 it operates for the sole purpose of supplying its coal requirements for its steel manufacturing operations. The acquisition of the coal mine would be an acquisition of a separate unit of the S Company's business.

Example (5). The T Company, which is engaged in the business of operating a chain of drug stores, 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 has acquired a separate unit of the T Company'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 opens the store doing business under its own name. The X Company has not acquired 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. At the time of the sale, the factory is capable of profitably manufacturing mattresses on its own. Z Company has acquired a separate unit of the Y Corporation.

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

Example (8). The O Construction Company is owned by A, B, and C, who are unrelated individuals. It owns equipment valued at 1.5 million dollars and construction contracts valued at 6 million dollars. 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 seperate unit of the O Company's business.

(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). Factors to be considered 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 seperate 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 in the periods immediately preceding the transaction; and

(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 company's or 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 incomes increased by the amount of the deduction for dividends paid taken into account under section 852(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 1381(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 1382 (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 wage or salary 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 of the credit (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 § 1.52–1), it must reduce its deduction for wage or salary expenses by the amount of the credit that it 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 KURTZ,
Commissioner of Internal Revenue.

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

[4830–01]

[26 CFR Part 1]

[LR–70–77]

INCOME TAX

Refundings of Industrial Development Bonds; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

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

FOR FURTHER INFORMATION CONTACT:

David Dolan of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3803, not a toll free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 6, 1977, the FEDERAL REGISTER published a notice of proposed rulemaking (42 FR 61613) relating to refundings 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 "December 1, 1977" is changed to "December 15, 1977".

Dated: December 8, 1977.

DAVID E. DICKINSON,
Acting Assistant Director, Legislation and Regulations Division.

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

[3810–70]

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.

ACTION: Proposed Department of Defense Directive.

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.

ADDRESS: Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), The Pentagon, Room 3C980, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Captain E. T. Boywid, JAGC, USN, or LTC G. A. Johnson, USAF, telephone 202–697–9525.

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.

AUTHORITY: Title 10, U.S.C. 1552 and Title 38, U.S.C. 101, 3102, as amended by Pub. L. 95–126, October 8, 1977.

§ 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, and by agreement with the Secretary 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 provisions of Title 10, U.S.C. 1553. It may be configured as one main or two or more elements as designated by the Secretary concerned. (The term "Secretary" as used herein refers to the Secretaries 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 an organization recognized 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 panel 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 insure 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 Logistics) is delegated 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 personnel who have been 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., 801 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 a 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 Administation (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 without 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.

(3) *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. Unles such 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.

(4) *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 President of the Board 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 proposal for continuance is indefinite, 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) The decision 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.* (i) 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 representative, on request 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 deemed impracticable by the classifying 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 293 is submitted, since once the DD Form 293 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 and documents 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.

(iv) A DRB may take steps to obtain additional evidence 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 available evidence suggests certain aspects of the review would be incomplete without the additional information or when the applicant presents testimony or documents which require additional information to evaluate properly. Such information will be made available to the applicant with appropriate modifications with regard to classified material, if requested.

(10) *Contentions.* (i) 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 (f)(6)(ii) 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 as are discerned 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 (f)(6) 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 insure that reasonable bounds of relevancy and materiality are maintained in the taking of evidence and presentation of witnesses.

(2) Personal appearance earings (including hearing examinations) shall be conducted with recognition of the rights of the individual to privacy. Accordingly, presence at hearings of individuals other than those whose presence is required will be limited to persons authorized by the Secretary or expressly requested by the applicant. If in the opinion of the presiding officer of a panel, presence of other individuals would be prejudicial to the interests of the applicant or the government, such hearings may be in closed session.

(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 appropriate. He shall maintain an atmosphere of digniity and decorum at all times.

(4) Personal hearings shall be conducted with the objective of eliciting all the facts bearing on the case. Witnesses shall be encouraged to contribute to this objective. Board memberes 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 connsideration of all facts and information available to him.

(6) A secretary/recorder or assistant shall be designated to assist each DRB and DRB Panel to 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 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/dismissal and the specific regulatory authority under which it was issued;

(2) The circumstances and character of the petitioner's service as extracted from service records, health records and information provided by other government authority or the petitioner, such as, but not limited to:

(i) Date of enlistment

(ii) Period of enlistment

(iii) Age at enlistment

(iv) Length of service

(v) Periods of unauthorized absence

(vi) Conduct and efficiency ratings (numerical or verbal)

(vii) Highest rank achieved

(viii) Individual awards and decorations

(ix) Educational level

(x) Aptitude test score

(xi) Incidents of punishment pursuant to Article 15, UCMJ (including nature and date of offense)

(xii) Convictions by court-martial.

(3) A summary of information presented to the DRB as testimony when the review involves some form of personal appearance by the applicant and/or his counsel/representative, if prepared.

(4) Reference to the petitioner's written brief and documentary evidence submitted, if any.

(5) Advisory opinions or portions thereof containing factual information relied upon for final decision not fully set forth in the statement of findings, conclusions, and reasons; or containing advice, recommendations, or opinions, accepted as a basis for rejecting any of the applicant's claims that are not fully set forth in the statement of findings, conclusions, and reasons. These shall be incorporated by reference in the statement of findings, conclusions, and reasons, and appended to the decision.

(6) 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 DRB's decisions, 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 (i) through (iii) of this subparagraph.

(7) 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 thereto.

(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 through 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 matter in personnel 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, 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 considered 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.

(i) Final Disposition of the Board of Proceedings in Discharge Review. The original record of proceedings and all appendices thereto shall in all cases 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 minority 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 made available at the Armed Forces Discharge Review/Correction Boards Reading Room. They shall be indexed in a usable and concise form so as to enable the public and those who represent applicants before the DRBs to isolate 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 board hearings 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:

Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

(l) *Privacy Act Information.* Information protected under the Privacy Act is involved in the discharge review functions. The provisions of 32 CFR Part 286a 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 changed. The standards of review and 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 established which require automatic upgrade or denial of change in discharge. DRBs are not bound by any methodology of weighting the factors 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 at the time of issuance; and that the rights of the former service member were substantially prejudiced thereby; or

(2) The discharge was inconsistent with standards of service 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 41) favor upgrading of the discharge, even though the discharge was determined to be equitable and proper.

(d) *Factors Inclusive in Review Standards.*—(1) *General.* 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 relief 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 while 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 valor.

(vii) Individual awards received for meritorious service.

(ix) Wounds received in action.

(x) Combat service.

(xi) Wartime service.

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

(xiii) Letters of commendation or reprimand.

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

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

(xvi) 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.

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

Capability 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 sastisfactorily.

(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 293, 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 Transportation and 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, such 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.77-35794 Filed 12-13-77;8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 77-59]

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 and procedure 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 to insure that the Bureau of Hearing Counsel will be a party to those proceedings in which its participation would be necessary or desirable. The effect of the amendments will be to simplify the format of rulemaking proceedings to that of a single round of comments submitted by interested persons outside the Commission unless there are particular circumstances in which this 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 providing for a single round of comments to 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 or even trial-type hearings. The Commission believes that provision for a single round of comments except under the circumstances mentioned accords with modern authorities with respect to the proper method of employing administrative rulemaking.

In addition to amending its rules of procedure to establish the above-described format in rulemaking proceedings, the Commission is proposing to amend its rules to provide for the participation of the Director of the Bureau of Hearing Counsel as a party under particular circumstances. Hearing Counsel's participation is warranted, for example, when an evidentiary hearing is required to resolve factual disputes or when the Commission determines that Hearing Counsel's formal comments would be desirable.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), Part 502 of Title 46, Code of Federal Regulations, is proposed to be amended as set forth below:

§ 502.42 [Amended]

1. Section 502.42 is proposed to be amended by changing the period at the end of the first sentence to a comma and adding the following:

"* * * and in rulemaking proceedings he may become a party by designation if the Commission determines that the circumstances of the proceeding warrant his participation."

§ 502.53 [Amended]

2. Section 502.53 is proposed to be amended by changing the colon appearing after the word "manner" in the first sentence to a period and adding the following:

"* * * No replies to the written submissions will be allowed unless, because of the nature of the proceeding, the Commission indicates that replies would be necessary or desirable for the formulation of a just and reasonable rule:"

Since the proposals set forth in this rulemaking proceeding concern procedural matters limited to the conduct of formal proceedings before the Commission, their adoption could in no way be considered to result in major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Consequently no environmental impact statement will be issued in this proceeding.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-35646 Filed 12-13-77;8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1106]

[Ex Parte No. 55 (Sub-No. 22)]

ENERGY POLICY AND CONSERVATION ACT OF 1975

Proposed Implementation Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Revised Proposed Rule.

SUMMARY: The Energy Policy and Conservation Act of 1975 requires the Commission to include in its major regulatory actions a statement of the probable impact of these actions on energy efficiency and energy conservation. This rule defines "major regulatory actions" and lists those Commission actions which require preparation of energy impact statements. It also provides guidelines for determining whether other actions undertaken by the Commission have the potential for major energy impact. Reporting 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:

Richard I. Chais, Chief, Section of Energy and Environment, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, 202-275-7692.

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 to the proposed rules. In view of the importance of the rules to the Commisison 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 threshold of 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 the term major regulatory action liberally 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 defintion 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)[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 SEI 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 eminent 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 iron in favor of virgin ores.

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 ability to meet user needs.

Finally, Farmland Industries, Inc., an agricultural cooperative, suggests that the Commission recognize, in deciding all abandonment applications, that wholesale elimination of rail branch lines 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 only those actions which will minimize adverse energy impacts, and (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 note of the fact that Congress imposed the 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

[1] This section is § 1106.5(c)(1) in the final rules.

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 some degree.

Consequently, we have adopted an approach which will remove the need for a threshold determination of significance in certain cases but keep the threshold concept for others. Rule 1106.5(a) identifies the classes of actions which experience has shown have the greatest potential for substantial impacts on energy efficiency or energy consumption or which have a broad effect on the operations of the surface transportation industry. An SEI will be prepared in all such cases, even though it is recognized that in some instances the energy impacts will be minor. For cases not listed in rule 1106.5(a), an SEI will normally not be prepared. These actions generally do not result in serious energy impacts, although the possibility exists that particular proposals may require closer scrutiny and preparation of an SEI if the effect on energy may be substantial. We will, to a great extent, depend on the parties to bring to light the potential of a particular action for substantial adverse or beneficial impacts on the conservation or development of energy resources. Rule 1106.5(b) provides that the Commission may, based upon evidence submitted by the parties or upon its own motion, prepare an SEI for appropriate actions considering the factors set forth in rule 1106.5(c). Thus we have kept the "threshold" or "preliminary assessment" concept to a limited extent, restricting it to those classes of actions where it is administratively prudent.

To eliminate confusion created by meshing NEPA and EPACA requirements in the proposed rules, it should be emphasized that the SEI will be prepared without reference to whether or not an environmental impact statement or threshold assessment survey is required for a particular action.

EPACA's effect on the Commission decisionmaking process. Traditionally, Commission decisions have involved evaluating private proposals to determine whether or not their implementation would be consistent with the public interest or required by the public convenience and necessity. In making such a determination, the Commission will consider such factors as the economic burdens on affected parties, the quality of service, and the impact on environmental quality.[2] Weighing these considerations in balance, the Commission decisionmakers try to fashion a decision which will best carry out the perceived public interest.

EPACA represents a strong mandate for the Commission to consider energy consumption and efficiency in determining whether authorization of a proposal would be in the public interest. Not only will energy factors be weighed with other relevant considerations in the decisionmaking process, but existing policies and programs will be constantly evaluated to ensure that they do not foster wasteful energy consumption practices. 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 to conserve the Nation's finite energy supplies. These regulations seek to ensure that Commission decisionmakers become cognizant of the fact that energy considerations are important determinants of the public interest or public convenience and necessity and that Commission decisions should reflect a balancing of energy factors and other relevant considerations in supporting the final result.

It should be noted, however, that section 382(b) of EPACA is intended to supplement, rather than repeal, existing statutes, policies, and regulations. The Commission's primary responsibility remains the development, coordination, and preservation of a multi-modal national surface transportation system fully capable of meeting the Nation's economic needs. Thus, while energy efficiency and consumption are certainly important factors in defining what actions will be in the public interest, they may not be considered paramount in all cases in light of the Commission's obligation to protect the broad public interest. Consequently, we cannot agree with FEA's assertion that EPACA requires the Commission to take or condone only those actions which minimize adverse energy impacts. Such an approach does not recognize that determining what actions are in the public interest requires a complex balancing of diverse, often conflicting factors by Commission decisionmakers.

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 were described in the Notice of Proposed Rulemaking and will not be repeated in this report. In addition, a 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; [3] and water carrier certification. All of these actions usually 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 operate 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 and general rate 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 more or less efficient transport 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, resulting in very little effect on their operational efficiencies. Requiring an SEI for every application under these cir-

[2] The particular factors considered will vary depending on the type of action involved.

[3] An SEI will not be prepared for proceedings which the Commission does not investigate. Under the provisions of the Railroad Revitalization and Regulatory Reform Act and 49 CFR 1121.37, a railroad abandonment will automatically take effect if no petitions to investigate are filed within 35 days of the filing of the abandonment application and the Commission decides not to investigate on its own motion. Since Commission action in cases which are not investigated is primarily ministerial (issuing the appropriate certificate), the preparation of an SEI would serve no purpose. A similar rationale applies to fare and rate adjustment proposals and proposed passenger train discontinuances which are not investigated. However, the reporting requirements still apply to such cases and applicants' proposals will be closely scrutinized to determine whether energy considerations mandate investigation of a particular proposal.

cumstances 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 greater 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 imposed in rule 1106.7, and protestants 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 somewhat burdensome 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.[4]

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(c) will include energy impact information along with the environmental information now required by 49 CFR 1108.12.

These actions will, in most cases, entail the preparation of an environmental study which, under NEPA and the Commission's environmental regulations, 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 and Environment in assessing energy and 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 these actions are generally not subject to detailed environmental study 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 will 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 statutes as being essentially 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 issue them as 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 be adduced and subsequently considered in the statement of 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 actual action taken. 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 reponse 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 may be true if the SEI were made part of studies prepared under NEPA, we do not believe that the same problem would result from including the SEI in the decisional document. In preparing the SEI, 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 placed in 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 continue 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 rules, were to be considered 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 lieu of the general criteria employed, 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 percent) was also rejected on the ground that it would probably result in preparation of a disproportionate number of SEI's for relatively minor actions where existing energy use is quite low, while ignoring potentially major actions where 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 empty mileage 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 circumstances 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 adequately consider energy impacts in its proceedings 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.

[4] Because of the limited time periods involved and the need for fairly immediate action, these reporting requirements do not apply to temporary authority applications.

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

Sec.

1106.1 Purpose and scope.
1106.2 Authority.
1106.3 Definitions.
1106.4 Policy.
1106.5 Identification of major regulatory actions.
1106.6 Preparation of statements of energy impact.
1106.7 Reporting requirements.
1106.8 Initial and final decisions.

AUTHORITY: Secs. 17(3), 204(a)(6), 304(a), and 403(a), Interstate Commerce Act, 49 U.S.C. 17(3), 304(a)(6), 904(a), and 1003(a), Energy Policy and Conservation Act of 1975, 42 U.S.C. 6201 *et seq.* (EPACA), and secs. 553 and 559, Administrative Procedure Act, 5 U.S.C. 553 and 559.

§ 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 that certain steps be taken by the Federal and state governments to reduce demand for energy, increase domestic energy supplies, and conserve existing energy supplies through energy conservation programs 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 reduce energy consumption by persons subject 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.

(d) "EPACA" means the Energy Policy and Conservation Act of 1975.

(e) "Major regulatory action" is any action listed in § 1106.5(a) 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 connecting tracks);

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

(3) Commuter fare adjustments filed under 49 CFR 1105.1;

(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.

(11) However, if the Commission on its own initiative identifies energy issues of consequence in a proposed action not listed in paragraph (a) of this section, or if evidence is presented to the Commission indicating that this action may have important energy impacts, an SEI may be prepared.

(c) In determining whether a proposed action not listed in paragraph (a) of this section constitutes a major regulatory action consideration will be given to whether the action will:

(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 wil 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(c) 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.

§ 1106.8 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.77-35605 Filed 12-13-77;8:45 am]

notices

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

[3410-11]

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]

[3410-11]

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 Agricuture, 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) R4-78-2.

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, 324-25th 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 B. 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.

Dated: December 6, 1977.

VERN HAMRE,
Regional Forester.

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

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket Nos. 31311, 30241; Order 77-12-47]

WRIGHT AIR LINES, INC.

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.[1] 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 77-8-107) 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 subsequently objected and we were persuaded by their pleadings that Wright's application raised issues which warranted exploration 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 route 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.[2] 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."[3]

We share Wright's concern over the burden and expense which the prosecution of these cases can impose particularly on small carriers but we

[1] Wright proposes to serve Cleveland through the downtown Burke Lakefront Airport.

[2] The carrier cites the "Ohio/Indiana Points Case," Docket 21162, and the "Chicago-Midway Low-Fare Route Proceeding," Docket 30277, as adding to this burden. Wright contends that it has been forced by the expense to withdraw from the latter case.

[3] Wright has not requested dismissal of its application for Cleveland-Cincinnati authority in Docket 30241. No action has been taken on Wright's request to the law judge.

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.

PHYLLIS T. KAYLOR,[4]
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. SPRY,
Executive Assistant, to the Commissioner.

[FR Doc. 77-35612 Filed 12-14-77; 8:45 am]

[4] All Members concurred.

[3510-12]

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 Brandywine 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.

Dated: December 7, 1977.

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

[FR Doc. 77-35628 Filed 12-13-77; 8:45 am]

[3510-12]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

The South A tlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet January 24-26, 1978, at Council headquarters, 1 Southpark Circle, Charleston, S.C. the meeting starts at 1:30 p.m. on January 24, 1978, and will adjourn at about noon on January 26, 1978.

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. Premetz, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, suite 306, Charleston, S.C. 29407, 803-571-4366.

Dated: December 9, 1977.

WINFRED H. MEIBOHM,
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 16), 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:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

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 materials, along with certain other energy conservation related products, be labeled. In a letter dated July 18, 1977, National Consumers League requested that home insulation, among other products, be labeled. Subsequent letters asking that home insulation be labeled were received 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 requests, it was felt necessary to obtain supplementary information concerning the nature of the consumer 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. Accordingly, 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 insulation for homes as shown below.

FINDING OF NEED

The requests of Federal Energy Administration, 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 results of that examination and on 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 private dwellings is available to consumers 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 practicable, the Specification will cover all of those forms of thermal insulation which are normally purchased by consumers for their own use in retrofitting existing housing or in insulating housing under construction.

For the types of thermal insulation under consideration, the performance characteristics of primary interest to consumers include the thermal insulating properties of the material, the amount or quantity of material in a package, the area that can be insulated with the material in a package, and the fire properties of the material. The Specification will cover these performance 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 million homes were retrofitted, with about 60 percent of the work being done by homeowners. On the average each retrofit requires about 170 pounds of thermal insulating material. It is possible that more than 500 million pounds of insulation will be purchased by consumers for their own use in 1977.

Residential use of thermal insulation is expected to increase significantly in the future due to increasing fuel costs and interest in energy conservation. Federal and State governments are promoting increased use of thermal insulation through proposals such as aid to low-income families, tax rebate plans, building code requirements, 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 homeowners.

3. *Difficulties Experienced by Consumers.* Consumers purchasing thermal insulation for installation in their homes are faced with the problem of obtaining some desired amount of thermal resistance, or insulating ability, over some given area of floor, wall, or ceiling. The method of stating thermal 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 particularly true of loose-fill insulation, where the coverage or quantity statements on packages may be in terms of volume as packed, volume when installed, area covered when installed with a given thickness of insulating material, area covered at a given "R value", or weight. With so many variations to consider, it is difficult for consumers to compare the cost and the insulating ability of various types of insulation. A standard, easy-to-understand method of presenting information on insulating ability and coverage information to consumers is needed so that they may make cost effective comparisons of the various insulating materials available for purchase in the open market.

Consumers also experience difficulty in obtaining comparable and realistic information on the fire properties of various thermal insulation materials. The fire test method widely in use at this time provides fire hazard ratings in terms of flame spread classification (FSC) numbers. Such ratings are sometimes used in building codes and purchase specifications, but it has been determined that the ratings do not accurately indicate the relative fire hazard potential of all currently available thermal insulation materials as they are used in actual construction. Therefore, consumers cannot be certain that they are getting insulating materials which have acceptable fire hazard limitations even if the materials comply with local building codes. The development of new and more realistic test methods for the fire properties of thermal insulation is nearing completion. When available, these new test methods will be utilized in this program. FSC numbers may also be used to assist consumers to comply with building codes and specifications. The results of both the old and the new tests can be of maximum value to consumers only if they are presented in a standardized and easily understandable form.

4. *Potential for Consumer Loss.* It is important for consumers to know how much insulation coverage can be obtained from the various packages of insulating material available to them. When too much insulation is installed, initial costs will be higher than necessary and available supplies, which are in an increasing level of demand due to energy shortages, will be depleted unnecessarily. When too little is installed, energy losses and heating and air-conditioning costs will be higher than necessary and will continue indefinitely at the higher level. In either case, there is no practicable way for consumers to estimate the true extent of their financial burden.

Similarly, consumers might install thermal insulation which could increase the potential fire risk, particularly if installed incorrectly. Without proper education and information as to such matters, it would be difficult for many consumers to understand how fires may occur due to the addition of insulation, to recognize the interaction between the thermal insulation and some other component of the house, or to realize that major damage to a home and possible injury or loss of life could result from such a fire.

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 in this area. Therefore, the full 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 home insulation. At this hearing, the inadequacy of some present insulation labeling was demonstrated.

(b) At the 62d National Conference on Weights and Measures, in July 1977, delegates adopted as a guideline a proposal concerning the labeling of thermal insulation. This guideline, which is available to State and local governments desiring to add requirements concerning insulation to their regulations or codes, was developed in response to a consumer complaint originally registered with the Bureau of Consumer Protection and Environmental Health of the State of Wisconsin.

(c) 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.

(d) The Federal Trade Commission has published in the November 18, 1977 FEDERAL REGISTER (42 FR 59678) a proposed Trade Regulation Rule for thermal insulation materials that would require disclosure—on a label or in advertising—of the R value, the area that packaged insulation will cover to attain the stated R value, and the thickness to which the R value and area correspond for loose-fill insulation.

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

(f) The Council of Better Business Bureaus, after a comprehensive study, issued "Standards for Home Insulation Materials—advertising and selling," dated August 1977.

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 for measuring thermal insulation characteristics relevant to the labeling program include:

ASTM C 177—Test for Thermal Conductivity of Materials by Means of the Guarded Hot Plate.
ASTM C 518—Test for Thermal Conductivity of Materials by Means of the Hot Flow Meter.
ASTM C 236—Test for Thermal Conductance and Transmittance of Built-Up Sections by Means of the Guarded Hot Box.
ASTM C 653—Recommended Practice for Determination of Thermal Resistance of Low-Density Mineral-Fiber Blanket-Type Building Insulation.
ASTM C 687—Recommended Practice for Determination of Thermal Resistance of Low-Density Fibrous Loose Fill-Type Building Insulation.
ASTM C 167—Tests for Thickness and Density of Blanket- or Batt-Type Thermal Insulating Materials.
ASTM C 272—Test for Water Absorption of Care Materials for Structural Sandwich Constructions.
ASTM C 519—Test for Density of Fibrous Loose Fill Building Insulations.
ASTM C 520—Test for Density of Granular Loose-Fill Insulations.
ASTM D 1622—Test for Apparent Density of Rigid Cellular Plastics.
ASTM E 84—Test for Surface Burning Characteristics of Building Materials.
ASTM E 136—Tests for Noncombustibility of Elementary Materials.

Some product specifications may include additional test methods that may be used in this program. These include the following:

ASTM C 516—Specification for Vermiculite Loose Fill Insulation.
ASTM C 549—Specification for Perlite Loose Fill Insulation.
ASTM C 553—Specification for Mineral Fiber Blanket and Felt Insulation (Industrial Type).
ASTM C 591—Specification for Rigid Preformed Cellular Urethane Thermal Insulation.
ASTM C 665—Specification for Mineral Fiber Blanket Thermal Insulation for Wood Frame and Light Construction Buildings.
ASTM C 728—Specification for Perlite Thermal Insulation Board.
ASTM C 739—Specification for Cellulosic Fiber (Wood-Base) Loose-Fill Thermal Insulation.
ASTM C 764—Specification for Mineral Fiber Loose Fill Insulation.

Other documents pertinent to the program include:

ASTM C 168—Definitions of Terms Relating to Thermal Insulating Materials.
ASTM C 390—Sampling Preformed Thermal Insulation.
ASTM E 122—Recommended Practice for Choice of Sample Size to Estimate the Average Quality of a Lot or Process.

7. *Suitability of Current Test Methods.* The 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. That notice was published in the FEDERAL REGISTER on October 12, 1977, under the Department's National Voluntary Laboratory Accreditation Program (see 42 FR 55020).

The FSC numbers provided by ASTM E-84 are used in some purchase specifications, and in some building codes for certain types of buildings, as a comparative measure of the fire performance of various thermal insulation materials. However, it has been determined that the FSC numbers do not accurately indicate the relative fire hazard potential of all currently available thermal insulation materials as they are used in actual construction. New and more realistic test methods are being developed, and will probably be used for developing fire safety evaluation ratings on the proposed CPILP labels. However, the FSC numbers may also be included on the CPILP labels in order to assist consumers in complying with any applicable requirements in local building codes.

8. *Estimated Cost of Labeling.* The cost to manufacturers, private brand labelers, or importers of participation in the program will consist primarily of the costs of testing and of printing and affixing labels.

With regard to test costs, it is expected that, because of the requirements of various building codes, regulations, specifications, and industry programs, most thermal insulation for homes in the near future will have to be tested for determination of thermal insulating properties, fire properties, and perhaps other characteristics. It is anticipated that the test methods which will be used to meet these various requirements will also be used in CPILP.

Therefore, the testing will probably be done regardless of whether such insulation is labeled under CPILP. Thus, it is expected that manufacturers in most cases will not have to test specifically for CPILP, and the result of the program under these circumstances will be to put the test information already available to manufacturers (or which they may be required to obtain for other reasons) into a uniform format usable by consumers.

With regard to labeling costs of thermal insulation for homes, it is expected that the label developed under CPILP would merely be printed on the package along with or in place of other printed information. A separate printing operation and the affixing of a separate label to the package normally would not be necessary, so labeling costs are expected to be relatively insignificant.

Other Government agencies, such as the Federal Trade Commission, have proposed or are considering various information disclosure requirements for insulation. CPILP labels will provide

information—in a uniform, consumer-oriented format—about a wider range of attributes than is being considered by any one agency. The Department of Commerce intends to make CPILP labels compatible with any such requirements promulgated by regulatory agencies so that their disclosure requirments can be satisfied by participation in CPILP. Therefore, CPILP labels could actually decrease the complexity of the labeling job for insulation manufacturers, and also simplify product comparison by consumers at the point of sale.

Section 16.6 of the procedures, which originally called for the setting of fees and charges for participation in the program, was amended by notice in the FEDERAL REGISTER on November 4, 1977 (42 FR 57686), effective December 5, 1977, to permit the Secretary to suspend, at any time and for any length of time, the setting of fees and charges for participation. It is expected that the Secretary will make a determination that no fees or charges will be established for participation in the program with respect to thermal insulation for homes during the pilot phase of this project, in order to encourage manufacturers to participate in the program. Accordingly, manufacturers will not have to bear that expense.

In connection with the above finding of need, notice is also hereby given that a Performance Information Labeling Specification (Specifications) for thermal insulation for homes is being developed. When the proposed specification has been developed, its complete text will be published in the FEDERAL REGISTER for public comment pursuant to section 16.5(a) of the procedures.

Section 16.2(d) of the CPILP procedures contains the statement that "The program seeks to avoid the duplication of other Federal programs under which performance characteristics are labeled by exempting those performance characteristics from this program." The procedures are being amended to permit CPILP labels to include information about performance characteristics for which another Federal agency may require labeled information (such as in the Federal Trade Commission's proposed trade regulation rule mentioned in section 5.d above for disclosure of "R values" and coverage of thermal insulation) provided the other Federal agency agrees that the inclusion of such information in CPILP labels will be acceptable to that agency.

NOTE.—The Department of Commerce has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and Office of Management and Budget Circular No. A-107.

Issued: December 9, 1977.

JORDAN J. BARUCH,
Assistant Secretary for,
Science and Technology.

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

[3810-70]

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 be consistent with those approved by the Defense Privacy Board concerning the release of personal information to commercial enterprises (42 FR 5119). 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:

The following Treasury-Defense guidelines govern the application of the Privacy Act (Pub. L. 93-579, December 31, 1974) to the military banking institutions that operate under DOD Directive 1000.11, "Banking Insitutions Serving DOD Personnel on Military Installations," dated December 26, 1974, and DOD Instruction 1000.12, "Policies and Procedures Governing Banking Institutions Serving DOD Personnel on Military Installations," dated February 12, 1975.

(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), 552(a)(1). Nor are they "government contractors" within the meaning of 5 U.S.C. 552a(m), 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 Privacy Act implementation, the provision relating to Government contractors applies only to systems of records "actually taking the place of a Federal system which, but for the contract, 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 used, (3) the routine 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 cashing 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 account signature cards, certificates of 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 disclose my home address to authorized (name of financial insitution) officials so that they may contact me in connection with my banking business with (name of financial institution). All information furnished will be used solely in connection with my financial relationship with the (name of 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 (c) has not been obtained, the Department of Defense (DOD) may provide banks, branch banks, 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 pertaining to DOD personnel that normally can 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 MOSSO,
Fiscal Assistant Secretary
Department of the Treasury.

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

DECEMBER 9, 1977.

[FR Doc. 77-35613 Filed 12-13-77; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Office of the Assistant Secretary for Conservation and Solar Applications

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 Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Gurmukh Gill, Office of Conservation and Solar Applications, Department of Energy, 12th and Pennsylvania Ave. NW., Room 6521A, Washington, D.C. 20461, 202-566-7501.

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.

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.

Issued in Washington, D.C., December 12, 1977.

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

[FR Doc. 77-35795 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 39277). 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:

Assistant Administrator for Power Management, Bonneville Power Administration, 1002 Northeast Holladay Street, P.O. Box 3621, Portland, Oreg. 97208.

Based on the review, the final procedures have been adopted and appear below. The principal changes made from proposed procedures as a result of the review include the establishment of permanent mailing lists, by Marketing Policy subject, of interested individuals, agencies, and institutions. "Transcript" has been changed to "Official Record." Those addressing the Public Comment Forum are "Forum Participants" and not witnesses. Those desiring to address the chair during a Public Comment Forum, but who are unable to do so because of time limitations, may prepare written comments which will be included in the Official Record. The chairman may question forum participants and, in his discretion, permit BPA representatives and other forum participants a like privilege. All available environmental studies of the Proposed Marketing Policy will be made available for public review, along with the technical, theoretical, and empirical studies. Bonneville Power Administration Proposed Marketing Policies will not be submitted to the Federal Energy Regulatory Commission, formerly the Federal Power Commission (FPC), for confirmation and approval.

WILLIAM S. HEFFELFINGER,
Director of Administration.

DECEMBER 8, 1977.

PROCEDURE FOR PUBLIC PARTICIPATION IN MARKETING POLICY FORMULATION

1. *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 determination of Marketing Policies. The procedure shall apply to Marketing Policy formulation, and not implementation.

2. *Definitions*—a. *Administrator.* The BPA Administrator.

b. *Customer.* A 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.

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

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

e. *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, a Marketing Policy, public information and comment forums, 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 those individuals, organizations, and agencies that have requested in writing that they receive written notice regarding a proposed marketing policy or 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.

f. *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 Administrator on initiating this procedure to be responsible for formulating the specified Marketing Policy.

h. *Staff Evaluation.* A written evaluation by the BPA staff of the Official Record for a Proposed Marketing Policy. It shall include a review of the studies used in developing a revised Proposed Marketing Policy or Marketing Policy, and shall indicate revisions and reasons for them. The evaluation shall become part of the Official Record.

i. *Official Record.* The official record shall consist of (1) all FEDERAL REGISTER Notices provided for by these procedures, public comments thereon, and BPA responses thereto; (2) all technical, theoretical, empirical, and environmental studies used in developing the Marketing Policy; (3) the transcribed record of any forums provided for by sections 5 and 6, to include documents introduced at such forums together with all written comments, questions, and answers thereto; (4) staff evaluation of the Official Record; (5) findings of fact, conclusions, objections noted, and additional final policy documentation as provided in section 10; and (6) other information the Responsible Official determines is relevant.

3. *Decision to formulate a Marketing Policy and notice of intent.* When the Administrator decides a new or revised Marketing Policy is needed, BPA shall give Notice of its intent at least 30 days prior to giving Notice of the Proposed Marketing Policy pursuant to the following section 4. BPA shall indicate the extent that any existing policy might be revised in developing a new Marketing Policy. BPA shall solicit written comments and proposals to use in formulating the Proposed Marketing Policy.

4. *Proposed Marketing Policy.* BPA shall give Notice of the Proposed Marketing Policy stating in it: The subject and purpose of and the legal authority for the Proposed Marketing Policy and the major issues it will raise; the text of the Proposed Marketing Policy; the date, time, and location of any scheduled public information and comment forums; and the list of technical, theoretical, empirical, and environmental studies used in developing the Proposed Marketing Policy and locations at which BPA would make them available for inspection or copying in accordance with the Freedom of Information Act, 5 U.S.C. 552.

5. *Optional Public Information Forum.* The Responsible Official shall determine whether public information forums will be held to explain the Proposed Marketing Policy and the studies used in its formulation, and answer questions. The Responsible Official shall determine the number, if any, and locations of such forums in accordance with interest shown in the subject of the Proposed Marketing Policy. Notice to be given in advance of any such forum shall include the purpose, date, time, place, and procedures for any such forum.

The Responsible Official shall act as or appoint a forum chairman. Questions raised at the forum shall be answered by BPA representatives at the forum, a subsequent forum at the same location, or in writing. Forum proceedings shall be transcribed. All documents introduced, and questions and written answers shall be part of the Official Record which shall be available for inspection or copying in accordance with the provisions of the Freedom of Information Act, 5 U.S.C. 552.

6. *Public Comment Forum.* A public comment forum shall be held to permit Customers and the Public to submit written comments and orally present views and proposals regarding the Proposed Marketing Policy. Notice to be given at least 30 days in advance of the forum shall include the purpose, date, time, place, and procedures for the forum, and a statement of what technical, theoretical, empirical, and environmental studies used in developing the Proposed Marketing Policy are available and their locations.

The Responsible Official shall determine the number and locations of such forums in accordance with interest shown in the subject of the Proposed Marketing Policy. The Responsible Official shall act as or appoint a forum chairman. At the start of a forum the chairman shall briefly explain procedures and rules.

Notwithstanding any additional rules or procedures it might develop, BPA shall allow Customers and the Public to make oral statements and comments, introduced relevant documents, and ask questions of BPA representatives at the forum. Persons requesting to speak shall notify BPA at least 3 days before a forum so a list of forum participants can be prepared. The chairman shall establish time limitations for oral presentations by these participants to assure that all who register to speak shall have an opportunity to do so. Others will be permitted to speak if time allows. Those unable to speak because of time limitations and others who so desire may submit written comments for inclusion in the Official Record. The chairman may question forum participants and, at his discretion, permit BPA representatives and other participants a like privilege.

Questions not answered during a forum shall be answered in writing no later than the effective date of the Notice of either a revised Proposed Marketing Policy as provided in the following section 9 or, if a revised Proposed Marketing Policy is not developed, the Marketing Policy as provided in the following section 10. Forum proceedings shall be transcribed. All documents introduced and written answers to questions shall be part of the Official Record which shall be available for inspection and copying in accordance with the Freedom of Information Act, 5 U.S.C. 552.

7. *Consultation and Comment Period.* Customers and the Public may file written comments and questions with BPA regarding the Proposed Marketing Policy until at least 15 days after the last public comment forum. Written comments, questions, and answers shall be part of the Official Record.

8. *Staff Evaluation.* Following the consultation and comment period, BPA shall prepare a Staff Evaluation of the Official Record.

9. *Revised Proposed Marketing Policy and Review Period for Revised Proposed Marketing Policy.* If appropriate, BPA shall develop a revised Proposed Marketing Policy following the Staff Evaluation of the Official Record and give Notice of the revision and any studies used in developing the revised Proposed Marketing Policy not available at the date of the initial public comment forum. Customers and the Public shall be given at least 30 days from the effective date of Notice of the revised Proposed Marketing Policy to submit written comments to BPA before the Administrator adopts, modifies and adopts, or rejects the revised Proposed Marketing Policy. The comments shall become part of the Official Record.

10. *Final Marketing Policy Issued.* Following the Staff Evaluation of the Official Record, the Administrator shall decide whether to adopt, modify and adopt, or reject the Marketing Policy. Documentation of the decision shall include the purpose of and the legal authority for the Marketing Policy, findings of fact, conclusions, and the primary objections to the Proposed Power Marketing Policy submitted by Customers or the Public with brief explanations for rejecting those objections, which shall, with the Staff Evaluation, be part of the Official Record. BPA shall give Notice of the Marketing Policy adopted. It shall become effective either on the date of Notice or at a later date specified by the Administrator.

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

[FR 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 of the Economic Regulatory Administration of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Administrative Review, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Acting Director, Office of Administrative Review.

DECEMBER 7, 1977.

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., Kans. If granted: The remedial orders issued by DOE region VII on Nov. 10, 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 waterflood unit located in Stafford and Harper counties in Kansas.	DRA-0043—DRA-0059.	Appeal of the Nov. 10, 1977 remedial orders issued by DOE region VII.
11/25/77 ..	Ernest E. Allerkamp, San Antonio, Tex. 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 Halff & Oppenheimer and M. A. Tyler leases.	DRA-0042, DRS-0042.	Appeal of the Sept. 9, 1977 remedial order issued by FEA region VI. Stay request.
11/25/77 ..	Estates of Inez and Loyce Phillips, Austin, Tex. 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.	DEE-0319.....	Exception from sec. 212.165.
11/25/77 ..	Pioneer Operations Co., Inc., Russel, Kans. 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 "Flegler" leases located in Russel County, Kans.	DRA-0039, DRS-0039.	Appeal of the Nov. 11, 1977 remedial order issued by DOE region VII. Stay request.
11/28/77 ..	Goose Creek Oil Co., Inc., Salem, Ill. 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, Ill., at upper tier ceiling prices.	DEE-0318.....	Price exception (sec. 212.73).
11/28/77 ..	Petroleum, Inc., Wichita, Kans. If granted: Petroleum, Inc. would be permitted to sell crude oil produced from the Crowder lease located in Cleveland County, Okla., at prices in excess of the lower tier ceiling price.	DEE-0317.....	Price exception (sec. 212.73).
11/29/77 ..	Allied Chemical Corp. (UTP), Houston, Tex. 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.	DEE-0323, DEE-0324.	Price exception (sec. 212.165).
11/29/77 ..	Atlantic Richfield Co., Dallas, Tex. 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 Calidon Plant.	DEE-0322.....	Do.
11/29/77 ..	Charles W. Austin, Billings, Mont. If granted: The Nov. 9, 1977 remedial order issued by DOE region VIII, 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 1793 46B.	DRA-0062, DRS-0062.	Appeal of the Nov. 9, 1977 remedial order issued by DOE region VIII. Stay request.

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
11/29/77 ..	Cundari Oil Co., Inc., Birmingham, Mich. If granted: Cundari Oil Co., Inc. would be permitted to sell the crude oil it would produce from the Charley's Creek field located in Cabell County, W. Va. at market prices.	DEE-0347.....	Price exception (sec. 212.73).
11/29/77 ..	Robert E. Hanson, Riverton, Wyo. If granted: Hanson would be permitted to sell the crude oil produced from the North Tioga-Madison unit located in Divide County, N. Dak., at prices in excess of the lower tier ceiling price.	DEE-0320.....	Do.
11/29/77 ..	Phillips Petroleum Co., Bartlesville, Okla. If granted: The Nov. 10, 1977 remedial order issued by DOE region VII, would be rescinded and Phillips Petroleum Co. would not be required to refund overcharges made in its sales of crude oil produced from the Zenith waterflood unit located in Stafford and Reno Counties, Kans.	DRA-0060.....	Appeal of the Nov. 10, 1977 remedial order issued by DOE region VII.
11/29/77 ..	Placid Oil Co., Dallas, Tex. If granted: Placid Oil Co. would receive an extension of the exception relief granted in the May 23, 1977 decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Black Lake, Calumet, Lapeyrouse, Lake Washington, Patterson, Prentice, Promis, and Womack Hill plants.	DXE-0326—DXE-0333.	Extension of the relief granted in *Placid Oil Co.*, case Nos. FEE-4001 through FEE-4009 (decided May 23, 1977) (unreported decision).
11/29/77 ..	Sabre Refining, Inc., Bakersfield, Calif. If granted: The DOE would extend the FEA's July 5, 1977 decision and order which granted Sabre Refining, Inc. partial exception relief from its entitlement purchase obligations.	DXE-0346.....	Extension of the relief granted in *Sabre Refining, Inc.* 6 FEA par. 83,031 (July 5, 1977).
11/29/77 ..	Sid Richardson Carbon and Gasoline Co., Fort Worth, Tex. If granted: Sid Richardson Carbon and Gasoline Co. would receive an extension of the exception relief granted in the May 23, 1977 decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products.	DXE-0325.....	Extension of the relief granted in *Sid Richardson Carbon and Gasoline Co.*, case No. FXE-4321 (decided May 23, 1977) (unreported decision).
11/29/77 ..	Standard Oil Co. (Indiana), Chicago, Ill. If granted: The information request denial issued by the DOE on Oct. 13, 1977, would be rescinded and Standard Oil Co. (Indiana) would receive access to certain documentary material pertaining to the FEA's crude oil transfer pricing policy.	DFA-0061.....	Appeal of DOE's information request denial.
11/29/77 ..	Suburban Propane Gas Corp., San Antonio, Tex. If granted: Suburban Propane Gas Corp. 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 Martha Berry gasoline plant.	DEE-0321.....	Price exception (sec. 212.165).

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
11/29/77 ..	Texaco, Inc., Houston, Tex. If granted: Texaco, Inc. would receive an extension of the exception relief granted in the June 8, June 30, and July 25, 1977 decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Apache, Blessing, Delhi, Elmwood, Houma, Humble, Krotz Springs, Old Ocean, Paradis, Pledger, and Wilcox plants.	DXE-0334—DXE-0344.	Extension of the relief granted in *Texaco, Inc.*, case Nos. FEE-4053, FEE-4054, and FEE-4063 (decided June 8, 1977) (unreported decision); *Texaco, Inc.*, case Nos. FXE-4308, FXE-4314, and FXE-4317 (decided June 30, 1977) (unreported decision); *Texaco, Inc.*, case Nos. FEE-4344, FEE-4345 (decided July 25, 1977) (unreported decision).
11/30/77 ..	Eastern Oil Co., Tampa, Fla. If granted: The November 17, 1977 remedial order issued by DOE region IV would be rescinded and Eastern Oil Co. would not be required to refund overcharges made in its sales of gasoline, diesel fuel, and kerosene.	DRA-0063, DRS-0063.	Appeal of the November 17, 1977 remedial order issued by DOE region IV. Stay requested.
11/30/77 ..	Eastern Oil Co., Tampa, Fla. If granted: The Office of Administrative Review would be directed to assume jurisdiction over all matters relating to Eastern Oil Co. which are under investigation by DOE region IV and to apply certain auditing procedures in the investigation of matters involving the firm. In addition, certain audit work papers of region IV would be provided to the firm.	DSG-0005	Request for special redress.
11/30/77 ..	United Texas Transmission Co., Houston, Tex. If granted: United Texas Transmission 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 Galveston Bay plant.	DEE-0345.....	Price exception (sec. 212.165).
12/1/77	Anadarko Production Co., Houston, Tex. If granted: Anadarko Production 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 its Cimarron, Interstate, North Richland Center, and Woods plants.	DEE-0349—DEE-0352.	Do.

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

Date	Name and location of applicant	Case No.
11/25/77 ..	R. W. Tyson Producing Co., Inc., Jackson, Miss	FEE-4380, FEE-4438—FEE-4441.
11/30/77 ..	J. & W. Refining, Inc., Dallas, Tex.....	FXE-4453.

[FR Doc. 77-35608 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. ID-1734]

JOHN R. BURTON

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

DECEMBER 8, 1977.

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.
Castlegate Coal Co., Inc., 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.
Indiana & Michigan Power Co., secretary.
Kanawha Valley Power Co., director.
Kentucky Power Co., secretary.
Kingsport Power Co., secretary.
Michigan Gas Exploration Co., secretary.
Michigan Power 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]

[6740-02]

[Docket No. CP78-90]

COLUMBIA GAS TRANSMISSION CORP.

Application

DECEMBER 8, 1977.

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 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 425 Mcf of natural gas per day for Aluminum Co. of America (Alcoa) for 2 years, all as more fully set forth in the application of file with the Commission and open to public inspection.

The application states that Alcoa has contracted with PAR Oil Corp. et al., to purchase for a period ending July 1, 1978, a daily contract quantity of 3,920 Mcf of natural gas of which amount 465 Mcf per day would be used at Alcoa's Lebanon, Pa., facility. The application further states that Alcoa would pay PAR $2.05 per Mcf plus Btu adjustment if appropriate for the subject gas. It is indicated that the gas is not available to the interstate market.

Applicant requests authorization 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 Lines A-75 and A-80 in Warren County, Ohio at an existing point of delivery from Texas Gas Transmission Corp. (TGT). Applicant states that it would redeliver the gas for the account of Alcoa at an existing point of delivery in East Lancaster County, Pa. to UGI Corp. (UGI), a wholesale customer of Applicant, and that UGI would in turn deliver the gas to Alcoa's Lebanon facility.

It is stated that Alcoa's Lebanon Works produces aluminum foil and light gauge aluminum sheet for a wide variety of customers which include the food industry, the printing trade, the beverage industry, and the manufacturers of heat exchangers and air conditioners. It is further stated that production of these fabricated materials requires rolling mills, shearing mills and coating equipment along with associated annealing facilities. The annealing equipment used at the Lebanon Works was designed to use natural gas, both as a source of heat through thin wall, radiant tube type burners and to provide an inert atmosphere by the use of completely combusted natural gas, it is said. It is stated that presently existing technology is not able to 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.

It is stated that the gas transported hereunder is subject to diversion to Applicant on a temporary basis in emergency periods when, in Applicant's sole judgment, such gas is required for the protection of Priority 1 requirements on its system. Gas so diverted would be paid back as soon as practicable after the emergency period, it is said.

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 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 review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it

will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

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

[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 Franklin Realty, Inc., director.
Indiana & Michigan Electric Co., director, vice president.
Indiana & Michigan Power Co., director, vice president.
Kentucky Power Co., director, vice president.
Kingsport Power Co., director, vice president.
Michigan Gas Exploration Co., director.
Michigan Power Co., director, vice president.
Ohio Power Co., director, vice president.
Southern Appalachian Coal Co., director.
Southern Ohio Coal 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, 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. 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. 77-35678 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. ID-1735]

JOHN E. DOLAN

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

DECEMBER 8, 1977.

Take notice that John E. Dolan 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 Kentucky Power Co. Applicant indicates that he was elected a Director of Kentucky Power Co. on September 22, 1977, effective October 1, 1977. Applicant indicates that he presently holds the following positions:

NAME OF CORPORATION AND POSITION

American Electric Power Service Corp., Director, senior executive vice president, engineering.
Appalachian Power Co., director.
Central Ohio Coal Co., director.
Ohio Power Co., director.
Wheeling 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. 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. 77-35673 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 705(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 as 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

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 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 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-35672 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket Nos. CI77-721, CI77-724, and CI77-758]

HARKINS & CO. (OPERATOR, ET AL.)

Order Denying Applications for Limited-Term Certificates of Public Convenience and Necessity

DECEMBER 2, 1977.

These three proceedings involve applications filed with the Federal Power Commission for limited-term certificates of public convenience and necessity with pregranted abandonment. The applications were filed pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and section 157.23 of the Regulations under the Natural Gas Act (18 CFR 157.23) and section 2.70 of the Commission's Statements of General Policy and Interpretations Under the Natural Gas Act (18 CFR 2.70). By order issued November 4, 1977, these proceedings were consolidated for purposes of oral argument.[1]

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.[2]

The "savings provisions" of section 705(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 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 CRF ——, 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. CI77-721 for itself and as operator for Amerada Hess Corp., First Mississippi Corp., and St. Joe Petroleum (U.S.) Corp., filed for a 2-year limited-term certificate with pregranted abandonment authorizing the sale of natural gas for resale in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco).[3] On August 25, 1977, Amerada Hess Corp. (Amerada) in Docket No. CI77-758, 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 per month 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 time of receipt and acceptance of the authorization requested from the Commission or at the end of the initial 60-day emergency sale, whichever was later.[4] 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 during 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 Mcfd per each additional well. Transco is required to install and own all the facilities necessary to purchase this gas.

[1] The Commission on its own motion has consolidated these cases for decision.

[2] The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[3] 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. CI77-721, and, on October 25, 1977, at staff's request filed a schedule of well completions and estimated production from the Greens Creek Field.

[4] At the time the applications were filed, Harkins and Amerada were selling the Greens Creek field gas to Transco pursuant to section 157.29 of the Regulations under the Natural Gas Act (18 CFR § 157.29). 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.[5] (C & K), in Docket No. CI77-724, filed an application for a 3 year limited-term certificate with pregranted abandonment authorizing the sale of gas to Transco. The gas 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 projects 10 additional wells. The initial deliveries are estimated to be 15,000 Mcf per day with additional volumes to made available as new wells are completed and placed production. The proposed rate is $2.03 per Mcf at 15.025 psia, plus tax reimbuirsement 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 $173,000, and that C & K will repurchase such equipment 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 1, 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. CP77-578 requesting authorization to acquire C & K's surface gathering and purification equipment, and Tennessee has filed an application in Docket No. CP77-621, seeking athorization to transport the subject gas for the account of Transco. On November 4, 1977, the Commission consolidated the applications for purposes of oral argument. The oral argument was held on November 8, 1977.

In Opinion No. 699-B, the Commission, taking note of a continuing natural gas supply emergency, reinstated the limited-term certificate authority of section 2.70 of the Commission's Statements of General Policy and Interpretations (18 CFR § 2.70).[6] The Commission also established in Opinion No. 699-B the standards which it would employ in the consideration of applications for limited-term certificates, and adopted a two-pronged burden of proof that the applicant must sustain. Chairman Nassikas, writing for the Commission said,

> The applicants will have the burden of demonstrating by substantial evidence that the lowest price at which the particular supply of gas may be obtained for the interstate market and that the supply of gas is available only for the limited term for which certification is sought.[7]

The Commission went on to say, "We realize that these are general guidelines and state that rates allowed in any given case will not constitute a determination that equivalent rates would be approved in another case." Furthermore, the Commission noted that the pipeline contracting for such sales must show that there is an emergency on its system justifying the limited-term purchase.[8]

There is no doubt as to Transco's need for these gas supplies for this winter's heating period. Transco has stated that its most recent FPC Form 16 projected a system average curtailment of 49 percent during the 1977-1978 winter season; the level of system curtailment would result in an indicated curtailment of approximately 16.6 percent of Priority 1 customer requirements.[9] Additionally, information obtained during the omnibus proceedings instituted by an order issued on May 11, 1977, in *Alabama-Tennessee Natural Gas Company, et al.*, in Docket Nos. RP77-65, et al., indicates the possibility of plant shutdowns under normal weather conditions for six interstate pipelines, one of which is Transco. The final Commission staff report issued on October 14, 1977, regarding the anticipated gas supply and curtailment situation for Transco during the 1977-1978 winter indicates that at least one plant shutdown is anticipated this coming winter under normal winter conditions.

The Commission has gone to great lengths in its effort to find a means within its statutory authority by which it may certificate these sales. Oral argument was held before the full Federal Energy Regulatory Commission on November 8, 1977, in an effort to expedite our consideration and decision on the said application in time for this winter heating season. The Commission recognizes its duty to protect the customers of Transco and to maximize the supplies available to serve their needs. Nevertheless, the Commission must act within the boundaries of the Natural Gas Act since all authority for Commission action flows from that statute.

While the record clearly established that Transco is facing a severe supply shortage during this winter heating season, there is little evidence of its gas supply situation past this winter. The Commission could take official notice from data and projections of supply on Transco's system for the following 2 years in other proceedings as to the strong probability that 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 producers that they must further evaluate the respective fields and are unwilling to commit to a long-term marketing situation until such field evaluation is completed. We are unable to conclude that these naked assertions, without more, will carry the burden of demonstrating limited availability as required under Opinion 699-B.

In our efforts to exhaust all avenues afforded by the Natural Gas Act to find a rationale for certificating these sales, the Commission has reviewed its authority to issue certificates for limited terms or with pregranted abandonment. We take note that the United States Supreme Court in *F.P.C. v. Moss, et al.*, 424 U.S. 494, 500-501 (1976) has endorsed the consideration of present supply conditions, the need for additional exploration, and necessity for dedication of new gas as an element of the public convenience and necessity. The Court noted that §7(b) of the Natural Gas Act allows 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 that present supply and demand 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

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[5] The et al. parties are: C & K-AA, 76 Ltd.; C & K 1976 Ltd; C & K-AC Venture; C & KKC 1976 Ltd.; Mr. Harding A. Orren; Mr. Solly Robins; Mr. Julius E. Davis; Vanguard Petroleum Corp.; and Mr. Jack Webre.

[6] Opinion No. 699-B, *Just and Reasonable Rates For Sales of Natural Gas From Wells Commenced on Or After January 1, 1973, And New Dedications of Natural Gas to Interstate Commerce On or after January 1, 1973*, —— FPC ——, Docket No. R-389-B, issued September 9, 1974.

[7] Opinion No. 699-B, supra at 6.

[8] The Commission's Opinion Nos. 699, *et al.*, were affirmed in their entirety on appeal in *Shell Oil Co.* v. *FPC*, 520 F.2D 1061 (5th Cir 1975), cert. denied, *California Co.* v. *FPC* 426 U.S. 941 (1976).

[9] Transco's attorney in the oral agreement stated Transco's estimated curtailment this coming winter would amount to 44 percent of their flowing supplies. (Tr. 5).

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 a 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 ⅞ths of any new or additional taxes and $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 noted that the proposed transaction 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.[10] Such a finding is beyond our legal latitude.[11]

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 these 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, CI77-724 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.

[FR Doc. 77-35669 Filed 12-13-77; 8:45 am]

[10] 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 pay for costs traditionally borne by the producer.

[11] 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; *F.P.C.* v. *Sunray DX Oil Co.*, 391 U.S. 9.

[6740-02]

[Docket No. RI78-15]

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. RI78-15, a petition for special relief pursuant to section 2.76 of the Commission's Statements of General Policy and Interpretation (18 CFR 2.76).

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 rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-35676 Filed 12-13-77; 8:45 am]

[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., Pascoag 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 determing 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. 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 705(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 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.

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 Certificates, 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 "represent both an underlying long term plan for the development and use of storage facilities with short term transportation arrangements[1] and, a limited interim project."[2,3] 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 6); 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?

(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 several allegations. Under the heading "Temporary Authorization and Denial of Hearing on Interim Project" (slip op. at 7), the FPC addressed each of AEPCO's allegations "to show that each is the concern of on-going proceedings * * * thus vitiating any need for hearing in the instant proceeding other than as provided for herein" (slip op. at 8, footnote omitted), and concluded "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 conc ludes its petition with a discussion of the theory AEPCO has propounded in its various filings in this consolidated proceeding.[4]

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 prays "the Commission to immediately deny El Paso'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

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[1] This represents the original proposals of Mountain Fuel Resources, Inc., Mountain Fuel Supply Co., and Northwest Pipeline Corp.

[2] This aspect concerns the applications of El Paso, Clay Basin Storage Co., and Northwest Pipeline Corp.

[3] Order of September 30, 1977, mimeo at 2, notes added.

[4] AEPCO has filed assorted pleadings and supplements dated August 23, September 26 and 28, October 28, and November 1, all of this year, as well as an answer to this petition filed November 21, 1977.

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 try to issue any order that would clarify or seek to clarify, at this time, I am goint (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 beyondwhat (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 proceeding at this time as they are in other proceedings.

The Commission finds: That clarification is needed concerning the scope of the Order of September 30, 1977, in Docket Nos. CP76-285, et al.

The Commission orders: (A) The petition for clarification filed by El Paso Natural Gas Co., on November 10, 1977, in Docket No. CP76-285, et al., is hereby granted as set forth above.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 77-35666 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. RP77-98]

NATURAL GAS PIPELINE CO. OF AMERICA

Proposed Changes to Certain Rates and Charges

DECEMBER 7, 1977.

Take notice that on November 10, 1977, Natural Gas Pipeline Co. of America (Natural) submitted for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, the below listed tariff sheets to be effective January 1, 1978:

First Revised Sheet No. 390 (R/S X-46)
First Revised Sheet No. 457 (R/S X-50)
First Revised Sheet No. 653 (R/S X-62)
First Revised Sheet No. 654 (R/S X-62)
First Revised Sheet No. 668 (R/S X-63)
First Revised Sheet No. 695 (R/S X-67)

Natural states the purpose of the filing is to resubmit the above mentioned tariff sheets pursuant to Ordering Paragraph (C) of Commission Order issued June 30, 1977, at Docket No. RP77-98.

Natural states the referenced tariff sheets were originally tendered for filing on May 31, 1977, at Docket No. RP77-98. Natural had requested waiver of the Commission's Regulations to permit it to file the tariff sheets dated January 1, 1978 more than 60 days prior to the proposed effective date of the sheets. Certain tariff and contractual provisions precluded Natural from making the rate changes set forth on such sheets until January 1, 1978. The Commission denied Natural's request for waiver and rejected the above referenced tariff sheets. Such rejection was without prejudice to refiling of such tariff sheets at such time as in accordance with the Commission Regulations.

Natural further states that all material required by section 154.63 to be submitted with respect to the proposed tariff sheets was included in Natural's May 31 filing in Docket No. RP77-98. The computations in support of the rates and charges included on the above referenced tariff sheets are shown in Schedule K-1 of the above filing.

Copies of this filing were mailed to Natural's jurisdictional customers, all parties in Docket No. RP77-98, and interested State regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal 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 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. 77-35664 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. ER78-74]

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 poposed 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 betwen 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 amd 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 determiing 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. 77-35665 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. RI78-10]

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

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 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 rules of practice and procedure (18 CFR 1.9 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing herein, must file a petition to intervene 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. CP76-462 et al.]

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 705(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 402(a)(1) or (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 , 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 terms of 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 at the above-mentioned point of interconnection.[1]

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

[1] It is noted that the imbalance was reduced somewhat by an emergency exchange between WGI and Cities Service for the period January 9, 1977, to March 9, 1977.

affiliate fo WGI. The sales would be made in accordance with WGI's Rate Schedule G-N, and, pursuant to existing certificates, at various points of delivery along WGI's transmission line in Beaver and Texas Counties, Okla., and in Sherman County, Tex. WGI states that all such gas would be distributed and resold by Southern Union through existing distribution facilities to present and future customers of Southern Union.

In addition, WGI requests permanent certificate authority for continued use of the Adams tap and associated facilities. The use of these facilities was authorized by a temporary certificate issued on April 6, 1977 in Docket No. CP76-462 et al., and WGI states that its request for permanent certificate authority herein is made irrespective of the outcome of the CP76-462 et al., proceedings.

After due notice of the application filed in Docket No. CP77-565 by publication in the FEDERAL REGISTER on August 29, 1977 (42 FR 3457), timely petitions to intervene in support of the application were filed by Southern Union and Cities Service. After due notice of the petition to amend filed in Docket No. G-18545 by publication in the FEDERAL REGISTER on September 1, 1977 (42 FR 44032), petitions to intervene in support of the petition were filed by Southern Union and WGI. No further notices of intervention, protests to the granting of the applications, or petitions to intervene have been filed in these proceedings. We find that all of the petitioners to intervene have a real and substantial interest in these proceedings and should be permitted to intervene.

By order issued January 28, 1977, in Docket Nos. CP76-462 et al., the FPC set for hearing consolidated applications by Southern Union pursuant to section 7(a) of the Natural Gas Act for increased gas deliveries from Cities Service and Northern Natural Gas Co. (Northern). The additional gas entitlements sought by Southern Union would be delivered by Cities Service and Northern to WGI, the interstate pipeline affiliate of Southern Union, for transportation through its East Line and redelivery to Southern Union for ultimate resale to customers proximate to the East Line (East Line customers). At issue in that consolidated proceeding is the gas supply posture of Southern Union and its affiliated companies and the ability of Southern Union to meet the gas requirements of its "East Line customers" absent the proposed additional entitlements from Cities Service and Northern. In addition, in that proceeding there is also at issue the question whether WGI should be granted permanent authority to continue to operate facilities which interconnect Cities Service and WGI known as the Adams tap.

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 on its East Line raises a question of the need for that gas service on the part of WGI and its resale customer Southern Union. As previously indicated the sufficiency of the East Line gas supply is the heart of the 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 same facilities—the Adams tap—should be granted should not be considered in separate proceedings.

The clearly preferable route of action is to consolidate the instant applications with the applications in the 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 ongoing 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 77-35667 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. CP78-86]

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(c) 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), an indirect industrial customer of Applicant, 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 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 to transport such quantities, less 3 percent for gas used by Applicant, to Penn Fuel at the existing Huntingdon County, Pa. sales delivery point, for redelivery to Owens/Corning.

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 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 review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-35668 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. CP78-98]

TEXAS GAS TRANSMISSION CORP.

Application

DECEMBER 8, 1977.

Take notice that on November 22, 1977, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42310, filed in Docket No. CP78-98 an application pursuant to section 7(c) 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 natural gas for a period ending June 30, 1978, for Aluminum Company of America (Alcoa), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport gas for Alcoa pursuant to a transportation service agreement dated October 11, 1977, between Applicant and Alcoa. The application states that Alcoa and its wholly-owned subsidiary, Rea Magnet Wire Company, Inc. (Rea), have entered into a gas purchase contract with Par Oil Corp. et al., (Par), for the purchase of volumes of natural gas from certain leasehold interests presently owned or controlled by Par in Claiborne Parish, La. It is indicated that Alcoa would pay a price of $2.05 for each Mcf delivered hereunder. It is further indicated that the subject gas is not available for resale in the interstate market.

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 Sharon-Carthage 20-inch 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 741 Mcf per day to Michigan Wisconsin Pipe Line Co. (Mich-Wisc) at an existing point of intersection located in Webster County, Ky., which volumes would be delivered by Mich-Wisc to Panhandle Eastern Pipe Line Co. (Panhandle) for ultimate delivery to Rea's manufacturing facility at Lafayette, Ind.

C. Up to 3,186 Mcf per day to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), by means of a dispatching arrangement at the tailgate of the Champlin Gasoline Plant in Panola County, Tex., where Applicant and Tennessee both have facilities, for ultimate delivery to Alcoa's Alcoa, Tenn., plants.

D. 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 Docket No. CP76-267, 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-Wisc, 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

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 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 proeeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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.

KENNETH F. PLUMB,
Secretary.

[FR. Doc. 77-35679 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. CP76-403]

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 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 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 22, 1977, Texas Gas Transmission Corp. (petitioner), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP76-403 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 docket pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) so as to authorize an additional point of receipt of natural gas from Transcontinental Gas Pipe Line Corp. (Transco) for Owens-Corning Fiberglas Corp. (Owens-Corning), all as more fully set forth in the petition to amend on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of August 13, 1976, as amended February 7, 1977, petitioner was authorized to transport and deliver for the account of Owens-Corning a volume of natural gas up to 2,000 Mcf per day to Jackson Utility Division, City of Jackson, Tenn. (Jackson), and up to 300 Mcf per day to Texas Eastern Transmission Corp. at a point of delivery located near Lebanon, Ohio. It is further indicated that by an order dated August 29, 1977, the FPC further amended the order of August 13,1976, by authorizing petitioner to divert all or a portion of the volumes being transported and delivered to Jackson for Owens-Corning's account, and deliver such volumes to Transcontinental Gas Pipe Line Corp. (Transco) for ultimate delivery to Owens-Corning's Anderson, S.C., plant. Such volumes are diverted when needed at the Anderson plant for high-priority use, it is said. It is indicated that the above-described transportation service was authorized for a 2-year period from the date of initial delivery, which date was August 27, 1976.

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 becuase of declining production from this source, Owens-Corning has entered into an agreement with Kilroy, Edwin L. Cox, and Southland Royalty Co. (sellers) for the purchase of volumes of natural gas from the A-1 and A-2 Wells, Southwest Paradis 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 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 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 Transco at an existing point of exchange located near Mamou, Evangeline Parish, La., or at other mutually agreeable points of exchange between petitioner and Transco, and transport and deliver an equivalent volume to Jackson, for the account of Owens-Corning. Petitoner states that the volumes received from Transco 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 Transco at the proposed point of receipt and delivered 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 any protests with reference to said petition to amend should 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 determing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-35680 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. ID-1528]

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.
Castlegate 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, 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. 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. 77-35675 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. CP78-97]

UNITED GAS PIPE LINE CO.

Application

DECEMBER 8, 1977.

Take notice that on November 22, 1977, United Gas Pipe Line Co. (applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-97 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation 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 requests authorization to transport a maximum daily quantity (MDQ) of up to 10,000 Mcf of natural gas per day for Southern pursuant to an agreement dated September 29, 1977, between the two parties. Applicant indicates that the gas proposed to be transported for Southern has been purchased by Southern from Atlantic Richfield Co.'s (ARCO) production from the ARCO-Hicks No. 3 and the ARCO-Soape No. 2 Wells in Carthage Field, Panola County, Tex. It is indicated that ARCO has been authorized to sell gas to Southern under its rate schedule 381 as certificated in Docket No. G-11229.

Applicant states that it would receive said quantity of gas for Southern's account through measuring facilities to be constructed on applicant's Carthage Field gathering system by applicant at Southern's expense, and that it would thereafter transport and redeliver such gas or equivalent volumes thereof, less 1.5 percent for fuel and company-used gas, to Southern at the existing authorized point of interconnection between the systems of applicant and Southern at Perryville, Ouachita Parish, La., or other mutually agreeable existing points of interconnection of the facilities of petitioner and Southern.

Applicant states that Southern would pay it for gas transported under this agreement an amount per Mcf equal to applicant's average jurisdictional 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 20.04 cents per Mcf, it is said.

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 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 review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[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

proposal which, if approved, will resolve all issues in this proceeding. Western's settlement proposal shows service on all parties on the official service list.

Any person wishing to do so may file comments in writing concerning Western's settlement proposal with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All comments should be filed on or before December 23, 1977. Western's settlement proposal is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-35682 Filed 12-13-77; 8:45 am]

Federal Energy Regulatory Commission

[Docket No. CP77-601]

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 in Liberty County, Tex., rather than the 6600 horsepower unit originally proposed, all as more fully set forth in the amendment on file with FERC and open to public inspection.

In its original application Applicant requests authorization to construct and operate approximately 20.08 miles of 30-inch loop pipeline in Montgomery, Harris, and Jefferson Counties, Tex., and compression station No. 343 located in Liberty County, Tex. Applicant proposed to construct and operate these facilities to increase the capacity of its Louisiana supply, it is said.

Applicant states that subsequent to the filing of its original applicant in this proceeding, it requested and received bids for the proposed compression based on the additional capacity required at its compressor station No. 343, and that the nearest size unit offered by the manufacturers to meet Applicant's design compression requirements was rated at 7250 horsepower. Applicant indicates that this offering is the low-priced bid and and its installed cost is estimated to be $145,000 more than that reflected in the original application. Applicant has not revised the application's estimated costs since the application provides $878,000 (or 5 percent), as a contingency against cost increases that would subsequently be encountered as Applicant proceeds with material procurement and installation, it is indicated.

Consequently, Applicant proposes to amend its original application filed in said docket so as to provide for the additional 7250 horsepower of compression at compressor station No. 343. Applicant asserts that that additional horsepower of compression would be use 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 period.

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 person who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-35504 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-593, ER77-596, ER77-626, ER77-633, ER77-634, and ER78-38]

NORTHERN STATES POWER CO. OF MINNESOTA

Order Accepting for Filing Certain Proposed Rates and Agreements, Suspending Certain Rates, Redesignating Certain Rates, and Granting Waiver of Notice Requirements

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 and the Federal Energy Regulatory Commission (FERC), which, was activated on October 1, 1977.

The "savings provisions" of section 705(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 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.

Between September 19 and September 30, 1977,[1] Northern States Power Co. of Minnesota (NSP-Minn.), tendered for filing Municipal Resale and Transmission Service Agreements[2] which are intended to supersede agreements on file for five municipal customers.[3] Additionally, on October 31, 1977, Northern States tendered for filing a supplemental agreement to its existing Municipal Resale and Transmission Agreement with the City of

[1] See, Attachment A for individual docket designations and original tender filing date.

[2] See, Attachment B for contract designations and discriptions.

[3] The Cities of Ada, East Grand Forks, Olivia, and Saux Centre, located in Illinois, and the City of Sioux Falls, S. Dak. See, Attachment A for individual docket designations.

St. James, S. Dak.[4] The proposed agreements provide for NSP-Minn. to furnish what it calls "load pattern" power and transmission of Bureau of Reclamation power to the municipals. The "load pattern" power is intended to provide firm power to the municipals in excess of thier BOR allotment or self-generation capabilities.[5] The proposed agreements regarding the Cities of Ada, Sauk Centre, and St. James also provide for transformation service.

NSP-Minn. requested that the five superseding agreements, originally tendered for filing in late September, be assigned an effective date of October 21, 1977, the date that service was to commence. However, the tendered filings were found deficient. NSP-Minn. cured the deficiency on November 3, 1977, and that date was assigned as the tender filing date. Because of the time lost resolving the deficiency, to grant an effective date for the proposed rates of October 21, 1977, the date when service began, waiver of notice requirements under section 35.11 of the Commission's regulations would be necessary. NSP-Minn. expressly requests waiver of the notice requirement to allow the supplemental agreement for the City of St. James to become effective on the date service began, October 21, 1977, although tendered for filing on October 31.

Notice of the tenders were issued between September 23 and November 7, 1977, with responses due from October 3 to November 21, 1977. No responses were received.

A review of NSP-Minn.'s filings indicates that the proposed "load pattern" power and transformation rates should be accepted and permitted to become effective without suspension. A review of NSP-Minn.'s proposed transmission rates indicates that the proposed increase has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. The transmission rate is the same rate that is currently under review in Docket No. ER77-528. In that docket, the rate was suspended for five months, to become effective on March 21, 1978, subject to refund. Consequently, we will suspend the transmission rate in the present dockets until March 21, 1978, and make these dockets subject to the outcome in Docket No. ER77-528. To insure an effective transmission rate during the suspension period, we will redesignate the existing transmission rate agreements as supplements to the proposed superseding agreements. We will grant NSP-Minn.'s request to waive notice requirements in order to have the proposed transformation and load pattern power rates go into effect on October 21, 1977, as requested.

The Commission finds: (1) 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 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" rate 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. CASHELL,
Acting Secretary.

Docket	City[1]	Date originally tendered for filing[2]	Comment Deadline
ER77-593	Ada	9/19/77	10/3/77
ER77-596	Sioux Falls	9/20/77	10/11/77
ER77-626	East Grand Forks.	9/30/77	10/17/77
ER77-633	Olivia	9/30/77	10/17/77
ER77-634	Centre	9/30/77	10/17/77
ER78-38	St. James	10/31/77	11/21/77

[1] The Cities are located in Illinois with the exceptions of Sioux Falls and St. James, which are located in South Dakota.

[2] Because of a filing deficiency, the cited dockets except for the filing for the City of St. James were accept for filing on November 3, 1977. The filing date for the City of St. James is the date of the tender, October 31, 1977, since it was not deemed deficient.

ATTACHMENT B

Designation	Description	Supersedes	Effective date
(1) Rate Sch. FERC No. 385	City of Ada	Rate Sch. FPC No. 304 and Supp's No. 1 & 3.	10/21/77.
(2) Supp. No. 1 to Rate Sch. FERC No. 385.	Load Pattern Power	Not available	10/21/77.
(3) Supp. No. 2 to Rate Sch. FERC No. 385.	Transformation	do	10/21/77.
(4) Supp. No. 3 to Rate Sch. FERC No. 385 (Redesignation of Supp. No. 2 to Rate Sch. FPC No. 304).	Transmission	do	10/21/77.
(5) Supp. No. 4 to Rate Sch. FERC No. 385.	do	Supp. No. 3 to Rate Sch. FERC No. 385.	3/21/78.[1]
(6) Rate Sch. FERC No. 386	City of Sioux Falls	Supp. to Rate Sch. FPC No. 277.	10/21/77.
(7) Supp. No. 1 to Rate Sch. FERC No. 386.	Load Pattern Power	Not available	10/21/77.
(8) Supp. No. 2 to Rate Sch. FERC No. 386 (Redesignation of Rate Sch. FPC No. 277).	Transmission	do	10/21/77.
(9) Supp. No. 3 to Rate Sch. FERC No. 386.	do	Supp. No. 2 to Rate Sch. FERC No. 386.	3/21/78.[1]
(10) Rate Sch. FERC No. 387	City of East Grand Forks.	Rate Sch. FPC No. 387	10/21/77.
(11) Supp. No. 1 to Rate Sch. FERC No. 387 (Redesignation of Supp. No. 1 to Rate Sch. FPC No. 382).	do	Not available	10/21/77.
(12) Supp. No. 2 to Rate Sch. FERC No. 387 (Redesignation of Supp. No. 1 to Rate Sch. FPC No. 382).	Transmission	do	10/21/77.
(13) Supp. No. 3 to Rate Sch. FERC No. 387.	do	Supersedes Supp. No. 2 to Rate Sch. FERC No..	3/21/78.[1]
(14) Rate Sch. FERC No. 388	City of Olivia	Supp's. Nos. 1 & 2 to Rate Sch. FPC No. 322.	10/21/77.
(15) Supp. No. 1 to Rate Sch. FERC No. 388.	Load Pattern Power	Not available	10/21/77.

[1] Subject to refund.

[4] Docket No. ER78-38.

[5] Only Sioux Falls has its own generation capability, consisting of a total of 2.2 MW, composed of 4 units, the last of which was constructed in 1951.

ATTACHMENT B—Continued

Designation	Description	Supersedes	Effective date
(16) Supp. No. 2 to Rate Sch. FERC No. 388 (Redesignation of Rate Sch. FPC No. 322).	Transmission	do	10/21/77.
(17) Supp. No. 3 to Rate Sch. FERC No. 388.	do	Supp. No. 2 to Rate Sch. FPC No. 388.	3/21/78.[1]
(18) Rate Sch. FERC No. 389	City of Sauk Centre	Rate Sch. FPC No. 305 & Supp. Nos. 1 & 3.	10/21/77.
(19) Supp. No. 1 to Rate Sch. FERC No. 389.	Load Pattern Power	Not available	10/21/77.
(20) Supp. No. 2 to Rate Sch. FERC No. 389.	Transformation	do	10/21/77.
(21) Supp. No. 3 to Rate Sch. FERC No. 389 (Redesignation of Supp. No. 2 to FPC No. 305.	Transmission	do	10/21/77.
(22) Supp. No. 4 to Rate Sch. FERC No. 389.	do	Supp. No. 3 to Rate Sch. FPC No. 389).	3/21/78.[1]
(23) Supp. No. 2 to Rate Sch. FPC No. 312	Contract Supplement to City of St. James.	Not available	10/21/77.
(24) Supp. No. 3 to Rate Sch. FPC No. 312	Load Pattern Power	do	10/21/77.
(25) Supp. No. 4 to Rate Sch. FPC No. 312	Transformation	do	10/21/77.
(26) Supp. No. 5 to Rate Sch. FPC No. 312	Transmission	Supp. No. 1 to Rate Sch. FPC No. 312.	3/21/78.[1]

[1]Subject to refund.

[FR Doc. 77-35499 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket Nos. G-2889, *et al.*]

APPLICATIONS FOR CERTIFICATES, ABANDONMENT 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 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. 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.

[1]This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and Location	Price Per 1,000 ft³	Pressure Base
G-2889[1] D 11/28/77	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Tennessee Gas Pipeline Co. Certain acreage located in Donna Area, Hidalgo County, Tex.		
G-8341 CI72-593[2] 10/25/77	Phillips Petroleum Co., 5 C4 Phillips Building, Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Hobbs Plant tailgate, located in Lea County, N. Mex.	(3)	14.65
G-19589 G-19591 C 11/21/77	Belco Petroleum Corporation, One Dag Hammarskjold Plaza, New York, N.Y. 10017.	Northwest Pipeline Corp., Township 30 North—Range 113, West, Section 28, SW/4 NW/4, SW/4, E/2 NW/4, Big Piney area of Lincoln and Sublette Counties, Wyo.	(4)	15.025
CI62-1181 D 10/25/77	Texaco Inc., P.O. Box 52332, Houston, Tex. 77052.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	Depleted, plugged, and abandoned.	
CI77-593 C 10/25/77	Amoco Production Co., Security Life Building, Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., Casada-Federal Com. #1 Well, the Federal "AJ" Well and the Federal 2-28 Well, Hartzog Draw Field, Campbell County, Wyo.	[5]$1.47	15.025
CI78-63 CI61-775 B 10/25/77	American Petrofina Co. of Texas (Operator), *et al.*, Post Office Box 2159, Dallas, Tex. 75221.	Coastal States Gas Producing Co., Northeast Duval County, Tex.	Depleted, plugged, and abandoned.	
CI78-99 A 10/31/77	Cities Service Company (Succ. to Cities Service Oil Co.), P.O. Box 300, Tulsa, Okla. 74102.	Kansas-Nebraska Natural Gas Co., Banbury "A" No. 1 Well, Section 31-21S-40W, Hamilton County, Kans., limited to the interval between the surface down to and including the base of the Chase Formation, found at 2,764 feet in such well.	(5 4)	14.65
CI78-155 A 11/16/77	Ashland Exploration, Inc. (Succ. in Interest to Ashland Oil, Inc.), P.O. Box 1503, Houston, Tex. 77001.	Kansas-Nebraska Natural Gas Co., Inc., Henderson No. 1 well located in Section 26-T11N-R55W, Logan County, Colo.	(4)	15.025
CI78-157 G-4071 B 11/16/77	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kans. 67201.	Texas Eastern Transmission Corp., South Cottonwood Creek Field, DeWitt County, Tex.	Gas Contract has expired.	
CI78-160 A 11/9/77	Hassie Hunt, Inc., 2500 First National Bank Building, Dallas, Tex. 75202.	Montana-Dakota Utilities Co., Blankenship No. 4-8 well, Pavillion field, Fremont County, Wyo.	(4)	15.025
CI78-161 A 11/14/77	Ashland Exploration, Inc. (successor in interest to Ashland Oil, Inc.), P.O. Box 1503, Houston, Tex. 77001.	Colorado Interstate Gas Co., certain acreage located in Hamilton and Stanton Counties, Kans.	(4)	14.65

Docket No. and date filed	Applicant	Purchaser and Location	Price Per 1,000 ft³	Pressure Base
CI78-162 A 11/18/77	Belco Petroleum Corp., as agent for Belring Co., One Dag Hammarskjold Plaza, New York, N.Y. 10017.	Northwest Pipeline Corp., T. 33 N., R. 114 W., Section 33 down to and including the base of the Fort Union Formation, Big Piney Field, Sublette County, Wyo.	[4]$1.47	14.73
CI78-163 B 11/18/77	Eastern Associated Coal Corp., Koppers Building, Pittsburgh, Pa. 15219.	Consolidated Gas Supply Corp., methane—Pittsburgh seam coal, Battelle District, Monongalia County, W. Va.	Abandoned.	
CI78-165 A 11/18/77	Marathon Oil Co., 539 South Main Street, Findlay, Ohio 45840.	Arkansas Louisiana Gas Co., certain acreage in the southeast Custer City area, Custer County, Okla.	([5] [4])	14.65
CI78-166 A 11/18/77	Aminoil USA, Inc., Golden Center One, 2800 North Loop West, Houston, Tex. 77018.	Northwest Pipeline Corp., certain acreage in Lincoln County, Wyo.	[4]$1.43	15.025
CI78-167 A 11/18/77	Enserch Exploration, Inc., 1025 Connecticut Avenue NW., suite 1206, Washington, D.C. 20036.	Natural Gas Pipeline Co. of America, wells OCS-G-2751 "A" No. 1, 4, 10, 12, 13, 16, and OCS-G-0434 "A" 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.	([4])	14.65
CI78-168 A 11/9/77	Caroline Hunt Trust Estate, 2500 First National Bank Building, Dallas, Tex. 75202.	Montana-Dakota Utilities Co., Blankenship No. 4-8 well, Pavillion field, Fremont County, Wyo.	([4])	15.025
CI78-169 A 11/17/77	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	Northern Natural Gas Co., Mocane-Laverne field, Beaver County, Okla.	([4])	14.65
CI78-170 A 11/21/77	Marathon Oil Co	Arkansas Louisiana Gas Co., certain acreage in the North Cooper field, Blaine County, Okla.	([7] [4])	14.65
CI78-171 A 11/21/77	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Colorado Interstate Gas Co., Mocane (Chester) Field, Beaver County, Okla.	[4]147.00¢	14.65
CI78-172 A 11/21/77	Helmerich & Payne, Inc., 1579 East 21st Street, Tulsa, Okla. 74114.	Michigan Wisconsin Pipe Line Co., West Cheyenne Field, Roger Mills County, Okla.	[4]$1.592854	14.65
CI78-173 A 11/21/77	Union Oil Co. of California, Union Oil Center, room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	Northern Natural Gas Co., Rock Lake Morrow Field, Lea County, N. Mex., and limited to gas well gas produced from the surface of the earth to the base of the Morrow formation.	([4])	14.65
CI78-174 A 11/23/77	Ashland Exploration, Inc. (successor in interest to Ashland Oil, Inc.), P.O. Box 1503, Houston, Tex. 77001.	Southern Natural Gas Co., Napoleonville field, Assumption Parish, La.	([4])	15.025
CI78-175 A 11/23/77	Ashland Exploration, Inc. (successor in interest to Ashland Oil, Inc.).	Kansas-Nebraska Natural Gas Co., Inc., McMillen No. 1 well located in Section 22-T13D-R51W, Cheyenne County, Nebr.	([4])	15.025
CI78-177 A 11/25/77	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	United Gas Pipe Line Co., Joe McHugh Field, Lafourche Parish, La.	([8] [4])	15.025
CI78-178 A 11/25/77	Amoco Production Co	United Gas Pipe Line Co., Certain acreage in the Joe McHugh Field Lafourche Parish, La.	([4])	15.025
CI72-709 B 11/25/77	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Colorado Interstate Gas Co., Federal "A" No. 1 Well, T17N-R99W, Antelope Field, Sweetwater County, Wyo.	Plugged and abandoned.	
A 11/25/77	Texaco Inc., P.O. Box 2100, Denver, Colo. 80201.	Colorado Interstate Gas Co., Delaney Rim Area, Sweetwater County, Wyo.	([4])	15.025
A 11/25/77	Texaco Inc	Colorado Interstate Gas Co., Delaney Rim Area, Sweetwater County, Wyo.	([4])	15.025
A 11/25/77	Texaco Inc	Colorado Interstate Gas Co., Delaney Rim Area, Sweetwater County, Wyo.	([4])	15.025

Filing code:
A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Applicant assigned to Duer Wagner & Co., its interest in certain acreage in Hidalgo County, Tex., insofar only as the leases assigned cover the leasehold estates to the lands that lie within the Young Gas Unit No. 1 down to and including a depth of 8,245 feet below the surface of the ground.

[2] 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.

[3] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended and Opinion No. 749.

[4] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

[5] Applicant is filing under Gas Purchase Contract dated June 9, 1977.

[6] Applicant is filing under Gas Purhase Contract dated November 16, 1962.

[7] Applicant is filing under Gas Purchase Contract dated December 30, 1960.

[8] Applicant is filing under Exchange Agreement dated October 19, 1977.

[FR Doc. 77-35501 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. ER78-44]

NEW ENGLAND POWER CO.

Order Accepting in Part and Suspending in Part Proposed Service Agreements, Accepting Notice of Cancellation, Granting Waiver of Notice Requirements, Establishing Procedures and Granting late Intervention

DECEMBER 5, 1977.

On November 3, 1977, New England Power Service Co. tendered for filing on behalf of New England Power Co. (NEP) revisions to and notice of cancellation of tariff service to the town of Hudson, Mass., and a succeeding power contract for system power unreserved.

The various filings herein arose in part from a prior agreement between the parties, dated March 9, 1970, that NEP would construct a 115 kV interconnection to supply partial requirements primary service to Hudson, a service then being supplied at 13 kV.

As a result of a settlement agreement in NEP's R-6 general rate proceeding in Docket Nos. E-7700 et al., which standardized various contract forms into a tariff form, NEP attempted to increase the minimum demands for Hudson until the 115 kV interconnection was completed. Hudson pro-

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 notice 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[1] 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 under the filings subject to refund pending a final Commission order.

[1]System power unreserved is defined as electric power supplied by NEPCO without specification as to the source of generation, without reserve, but 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 offers of settlement pursuant to section 1.18 of the Commission's rules of practice and procedure.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission. Commissioner Holden voted present.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX I

Designation	Dated	Instrument
(1) Service Agreement under FPC Electric Tariff Orig. Vol. No. 1 (Supersedes Undated Service Agreement under FPC Electric Tariff, Orig. Vol. No. 1).	Dec. 10, 1974	Service Agreement.
(2) 1st revised sheet No. 3 under Supplement to Service Agreement under FPC electric Tariff, Orig. Vol., No. 1 (Supersedes Orig. Sheet No. 3).	Undated	Service and Entitlement Specification.
(3) Supplement to (1) above	Jan. 20, 1977	Amendment of Service Agreement.
(4) 2d revised sheet No. 4A under Supplement to Service Agreement under FPC Electric Tariff, Orig. Vol. No. 1 (Supersedes 1st revised sheet No. 4A).	Undated	Delivery Point and Minimum Demand Specifications.
(5) Supplement to (1) above (Cancels (1) above)	Oct. 28, 1977	Notice of Cancellation of Service Agreement.
(6) Exhibit A to (5) above	Jan. 13, 1977	Letter Agreement.
(7) Rate Schedule FERC NO. 305	May 1, 1977	Power Contract, System Power Unreserved.

[FR. Doc. 77-35500 Filed 12-13-77; 8:45 am]

[6740-02]

[Docket No. RP76-52]

NORTHERN NATURAL GAS CO.

Availability of Draft Environmental Impact Statement

DECEMBER 9, 1977.

Notice is hereby given in the above Docket that on November 25, 1977, a Draft Environmental Impact Statement prepared by the staff of the Federal Energy Regulatory Commission has been published and is available for review and comment in conformity with the National Environmental Policy Act of 1969 (42 USC 4321 et seq.) and Section 2.82(b) of the Commission's General Policy and Interpretations (18 CFR 2.82(b)).

This draft statement deals with the environmental impact of alternative permanent curtailment plans proposed in Docket No. RP76-52 across the Northern Natural Gas Co. system.

This draft statement has been circulated to Federal, State and local agencies, and has been placed in the public files of the Commission, and is available for public inspection both in FERC's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426 and its Regional Office located at 230 South Dearborn Street, Chicago, Ill. 60604. Copies are also available in limited quantities from the Federal Energy Regulatory Commission's Office of Public Information, Washington, D.C. 20426.

Any comments on the Draft Environmental Impact Statement shall be filed with the Commission on or before January 9, 1978, and mailed to the following address:

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

All parties filing comments with the Commission on the Draft Environmental Statement should transmit 10 copies of their comments to the Council on Environmental Quality, Executive Office of the President, 722 Jackson Place NW., Washington, D.C. 20006.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-35660 Filed 12-13-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 828-8]

AMBIENT AIR MONITORING EQUIVALENT METHOD DESIGNATIONS

Sodium Arsenite and TGS-ANSA Manual Methods for NO_2

On December 1, 1976, EPA promulgated a new measurement principle and calibration procedure applicable to reference methods for measuring the ambient concentrations of NO_2 (41 FR 52686. Dec. 1, 1976). In the preamble to that promulgation, EPA indicated that as soon as at least one reference method was available, it would pursue testing and designation of at least two manual methods for measurement of NO_2 (41 FR 52688). Testing of three manual methods has now been successfully completed. Accordingly, notice is hereby given that the EPA is designating three manual methods for the measurement of ambient concentrations of NO_2 as equivalent methods in accordance with 40 CFR Part 53. The new designated methods are:

(1) EQN-1277-026, "Sodium Arsenite Method for the Determination of Nitrogen Dioxide in the Atmosphere."
(2) EQN-1277-027, "Sodium Arsenite Method for the Determination of Nitrogen Dioxide in the Atmosphere—Technicon II Automated Analysis System."
(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 NO_2 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 NO_2 measurements obtained with the method. However, use of these arsenite methods in areas of high and varying concentrations of these potential interferents (such as near roadways or other highway traffic density locations) is not 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 (36 FR 22398) 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 NO_2 is likely under the 1977 amendments to the Clean Air Act, and that none 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 Supprt 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" analysis 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 degrade markedly. Frequent sources of error include improperly calibrated flow measurement devices, air leakage in sampling apparatus, malfunction or clogging of air flow control devices, leakage of absorbing solution or sample during transport or shipping, impure reagents or water, and improperly calibrated spectrophotometers. Agencies desiring to use one of these methods in a network operation must develop and use additional operation and 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," obtainable from the Quality Assurance Branch, Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Dated: December 6, 1977.

STEPHEN J. GAGE,
Acting Assistant Administrator for Research and Development.

[FR Doc. 77-35603 Filed 12-13-77; 8:45 am]

[6560.01]

[FRL 829-6]

DIRECTOR, OFFICE OF FEDERAL ACTIVITIES

Receipt of Environmental Impact Statements; Delegation of Authority

Reorganization Plan No. 1 of 1977, requires that certain functions relating to administration of the National Environmental Policy Act be transferred from the Council on Environmental Quality to the Environmental Protection Agency. Effective December 5, 1977, the Environmental Protection Agency shall assume the responsibility for receiving Environmental Impact Statements, for making these documents available to the public, and for publishing notices of their receipt and availability in the FEDERAL REGISTER.

Pursuant to the authority vested in the Administrator, the Director, Office of Federal Activities, or in his absence, the official authorized to act in his behalf, is hereby delegated the authority of the administrator of the Envoironmental Protection Agency to publish such notices as are required to be published in order to appropriately notify the public of the receipt and/or availability of Environmental Impact Statements.

Effective date: This delegation of authority shall become effective on December 12, 1977.

Dated: December 9, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 77-35690 Filed 12-13-77; 8:45 am]

[6560-01]

[FRL 830-3; OPP-180160]

IDAHO STATE DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Thiabendazole To Control Fungi in Stored Sugar Beets

The Environmental Protection Agency (EPA) has granted a specific exemption to the Idaho State Department of Agriculture (hereafter referred to as the "Applicant") for postharvest application of thiabendazole to control various fungi threatening 250,000 tons of sugar beets in storage areas in Idaho. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., room E-315, 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 those 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 processing equipment made immediate processing of the beets undesirable.

The Applicant proposed to use Mertect 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 Mertect 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 180.242). 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 add only an insignificant 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 Mertect 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 and 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 Mertect 340-F, EPA Reg. No. 618-75-AA, will be used;

2. the rate of application will not exceed 42 ounces of the product in 100 gallons of water per 100 tons of sugar beets;

3. A maximum of 855 gallons of the product may be applied;

4. A maximum of 250,000 tons of sugar beets may be treated;

5. All applications will be made by trained 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-registered 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 sugarbeet molasses will not result 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. 18, 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 7, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 77-35693 Filed 12-13-77; 8:45 am]

[6560-01]

[FRL 829-8; OPP-50352]

PENNWALT 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 99 pounds of the herbicide 3,4-dichloroisothiazole-5-carboxylic acid potassium salt on cotton plants to evaluate its use as a defoliant. A total of 528 acres is involved; the program is authorized only in the States of Arizona, California, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas. The experimental 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-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. 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 PESTICIDE 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 COMMUNCIATIONS COMMISSION

STANDARD BROADCAST AND FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: December 5, 1977.

Released: December 7, 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.

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 complete FCC Forms 301.

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 Federal Communications Commission.

WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 77-35683 Filed 12-13-77; 8:45 am]

[6715-01]

FEDERAL ELECTION COMMISSION

[Notice 1977-55]

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:

NAME: Federal Election Commission Clearinghouse Advisory Panel.

DATE: January 9 and 10, 1978.

PLACE: Congressional Room, Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Va.

TIME: 0900-1200, 1400-1630 on January 9, 1978; 0900-1200, 1400-1630 on January 10, 1978.

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.

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. 20463.

Dated: December 9, 1977.

THOMAS HARRIS,
Chairman, Federal Election Commission.

[FR Doc. 77-35638 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 SYNTHETHIC YARN FROM PORTS IN 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 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 proportional 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 pounds, 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, 215 cents per 100 pounds; from San Juan, P.R., 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 synthetic 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 ratemaking 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 Protests 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, 1916, 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 9, 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]

[4110-02]

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 708(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 has determined that projects to 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. 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 maintained 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. *Resubmitted 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 approvable 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.)

Dated: November 29, 1977.

(Catalog of Federal Domestic Assistance Number 13.532, Emergency School Aid Special Projects.)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 77-35649 Filed 12-13-77; 8:45 am]

[4110-89]

Office of the Secretary

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" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative 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 Data Acquisition Council and 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.

Dated: December 8, 1977.

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.

2. Agency/bureau/office: U.S. Office of Education, Office of Planning Budgeting and Evaluation.

3. Agency form Nos. OE-295 and OE-361.

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. 1921), Sec. 705(b), 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. 1231a), Sec. 422(a)(3), Pub. L. 92-318.

"* * * the Secretary shall transmit to (appropriate Congressional committees) an annual evaluation report which evaluates the effectiveness of applicable programs * * * such report shall * * * contain information on progress being made * * * describe the cost and benefits of the applicable program * * * identify which sectors of the public receive the benefits of such programs * * *" (20 U.S.C. 1226C). Sec. 417(a)(1)(B)(C), Pub. L. 93-380.

Also, the National Reading Improvement Program states: "The Commissioner shall submit an annual evaluation report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than February 1, in each fiscal year ending prior to fiscal year 1979." (20 U.S.C. 1981). Sec. 731(a), Pub. L. 93-380.

5. Voluntary/obligatory nature of response: Voluntary.

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-semi-annual.

8. Respondents:

(a) Type: Local Educational Agencies.

(b) Number: 130.

(c) Average man-hours per respondent: Application-32, Reporting forms-8.

(a) Type: State Education Agencies.

(b) Number: Universe-56.

(c) Average man-hours per respondent: Application-32, Reporting Forms-8.

(a) Type: Other (Community Organizations), College and Universities.

(b) Number: 80.

(c) Average man-hours per respondent: Application-32, Reporting forms-8.

9. Information to be collected: The standard A-102 application will be used with a supplemental baseline data form. Information which is ordinarily supplied in open-ended narrative form (Part IV of A-102) will now largely be provided by responding to multiple-choice or fill-in-the-blank questions. The standard Financial Status Report will be used. Semi-annual performance reporting and the baseline data form will call for information on the following:

Number and characteristics of students and staff.
Instructional program.
Program objectives.
Project activities.
Reading achievement scores.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Financial Status and Performance Reports for College Library Resources, Library Training, and Equipment and Materials to Improve Undergraduate Instruction.

2. Agency/bureau/office: U.S. Office of Education, Bureau of Elementary and Secondary Education, Office of Libraries and Learning Resources.

3. Agency form No. OE-606.

4. Legislative authority for this activity: "Sec. 201. The Commissioner shall carry out a program of financial assistance to assist and encourage institutions of higher education in the acquisition of library resources, including law library resources * * * (&) to assist with and encourage research and training persons in librarianship, including law librarianship."
(20 U.S.C. 1021), Pub. L. 89-329.

"Sec. 601(a). The purpose of this part is to improve the quality of classroom instruction in selected subject areas in institutions of higher education."
(20 U.S.C. 1121), P.L. 89329.

"Sec. 422(a). The Commissioner shall—(3) collect data and information on applicable programs for * * * the effectiveness of such programs in achieving their purposes * * *
(20 U.S.C. 1231a), Pub. L. 91-230.

5. Voluntary/obligatory nature of response: Required to obtain or maintain benefits.

6. How information collected will be used: For managerial purposes, (a) the financial reports will be used to verify expenditures 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.

7. Data acquisition plan: (a) Method of collection: Mail.

b. Time of collection: Fall.

c. Frequency: Annually.

8. Respondents: (a) Type: Institutions of higher education.

(b) Number: 3,000.

c. Estimated average man-hours per respondent: 8.

9. 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 standard form. For grantees under Library Training, a narrative outline is provided for a performance report on program accomplishments.

[FR Doc. 77-35639 Filed 12-13-77; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6688-A]

ALASKA NATIVE CLAIMS SELECTION

On December 22, 1961, the State of Alaska filed general purposes selection applications A-056426 and A-056427, as amended, pursuant to section 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339-342; 48 U.S.C. ch. 2, sec. 6(b)(1970)). The State selected lands near the Native village of Ouzinkie. On April 24, 1964, decisions to tentatively approve were issued for certain lands within T. 27 S., R. 20 W., Seward Meridian (A-056426), and certain lands within T. 26 S., R. 20 W., Seward Meridian (A-056427).

On December 18, 1971, section 11 of the Alaska Native Claims Settlement Act (85 Stat. 688, 696; 43 U.S.C. 1601, 1610 (Supp. V, 1975)), withdrew the lands surrounding the village of Ouzinkie, including the lands in the subject State selections, for Native selection. On September 24, 1974, Ouzinkie Native Corp. filed village selection application AA-6688-A under the provi-

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 amended 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 village selection application AA-6688-A. Accordingly, the tentative approvals given in the decisions of April 24, 1964, are hereby rescinded in part and State selection applications 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;
Secs. 9 to 12, inclusive, all;
Sec. 13, N½, excluding Monashka Bay; SW¼; N½SE¼, excluding Monashka Bay; SW¼SE¼;
Secs. 14, 15 and 16, all;
Secs. 21 and 22, all;
Sec. 23, N½, N½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 24, N½NW¼;
Sec. 27, N½, SW¼, W½SE¼.
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 4871;
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 applicatrions 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 thereon for ditches and canals constructed 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. 975d;

3. The subsurface estate therein, and all rights, privileges, immunities 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(f) (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 D9 31) An 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 ¼ 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 upland of 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 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 hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, 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 hereinabove 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, contractee, 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 NW¼NW¼ of section 26.

2. ADL 52676, located in NW¼NW¼ of section 26.

3. ADL 52677, located in NW¼NW¼ of section 26.

4. ADL 52678, located in NE¼NW¼ of section 26.

5. ADL 52679, located in N½NW¼ of section 26.

6. ADL 52680, located in S½N½ of section 26.

7. ADL 52681, located in SW¼NE¼ of section 26.

8. ADL 52682, located in SE¼NW¼ of section 26.

9. ADL 52683, located in E½NW¼ of section 26.

10. ADL 52712, located in SW¼NW¼ of section 36.

11. ADL 52722, located in SE¼NE¼ of section 35 and SW¼NW¼ 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 SW¼SW¼, Section 36, T. 26 S., R. 20 W., Seward Meridian, and NW¼NW¼ of Section 1, T. 27 S., R. 20 W., Seward Meridian.

4. Grazing lease A-034760, to DeWitt W. Fields in section 35 of T. 26 S., R. 20 W., Seward Meridian, and sections 9, 10, 16, and 21 of T. 27 S., R. 20 W., Seward Meridian, under the act of March 4, 1927 (44 Stat. 1452; 48 U.S.C. 471, 471a, and 471o);

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 granted 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 2650.7(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 which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service 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:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Ouzinkie Native Corp., Box 89, Ouzinkie, Alaska 99644.

Koniag, Inc., Box 746, Kodiak, Alaska 99615.

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. SORENSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-35651 Filed 12-13-77; 8:45 am]

[4310-84]

[AA-6674-A]

ALASKA NATIVE CLAIMS SELECTION

Correction

In FR Doc. 77-34842 appearing at page 61896 in the FEDERAL REGISTER of December 7, 1977, paragraph 2 appearing in the third column of page 61898 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.

Dated: December 6, 1977.

GEORGE L. TURCOTT,
Acting Director, Bureau of Land Management.

Approved: December 7, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

DRAFT SALE NOTICE

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, Hale 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 date 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 9:30 a.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 administative 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 to 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. 1860, 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[1] or fraction thereof. All royalty bids must be expressed in a percent to a maximum of five decimal places. Although a percentage could be expresed 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 16⅔ 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 24, 1965, as amended by Executive Order 11375 of October 13, 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, cashiers 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 issuance 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 any 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 complied 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 $62 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) NI 17-12, James Island;

(2) NH 17-2, Brunswick; and

(3) NH 17-5, Jacksonville.

13. *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, NI 17-12 (APPROVED JUNE 11, 1975)

Tract No.	Block	Description	Hectares
43-1	115	All	2304
43-2	153	All	2304
43-3	154	All	2304
43-4	159	All	2304
43-5	160	All	2304
43-6	197	All	2304
43-7	198	All	2304
43-8	199	All	2304
43-9	203	All	2304
43-10	204	All	2304
43-11	241	All	2304
43-12	242	All	2304
43-13	243	All	2304

[1] One hectare equals 2.471 acres.

OCS OFFICIAL PROTRACTION DIAGRAM, JAMES ISLAND, NI 17-12 (APPROVED JUNE 11, 1975)—Continued

Tract No.	Block	Description	Hectares
43-14	244	All	2304
43-15	245	All	2304
43-16	246	All	2304
43-17	247	All	2304
43-18	285	All	2304
43-19	286	All	2304
43-20	287	All	2304
43-21	288	All	2304
43-22	289	All	2304
43-23	290	All	2304
43-24	291	All	2304
43-25	292	All	2304
43-26	329	All	2304
43-27	330	All	2304
43-28	331	All	2304
43-29	332	All	2304
43-30	333	All	2304
43-31	334	All	2304
43-32	335	All	2304
43-33	336	All	2304
43-34	373	All	2304
43-35	374	All	2304
43-36	375	All	2304
43-37	376	All	2304
43-38	377	All	2304
43-39	378	All	2304
43-40	379	All	2304
43-42	417	All	2304
43-43	418	All	2304
43-44	419	All	2304
43-45	420	All	2304
43-46	421	All	2304
43-47	422	All	2304
43-48	423	All	2304
43-49	462	All	2304
43-50	463	All	2304
43-51	464	All	2304
43-52	843	All	2304
43-53	844	All	2304
43-54	846	All	2304
43-55	887	All	2304
43-56	888	All	2304

OCS OFFICIAL PROTRACTION DIAGRAM, BRUNSWICK, NH 17-2 (APPROVED APRIL 29, 1975)

Tract No.	Block	Description	Hectares
43-57	256	All	2304
43-58	299	All	2304
43-59	300	All	2304
43-60	301	All	2304
43-61	342	All	2304
43-62	343	All	2304
43-63	344	All	2304
43-64	345	All	2304
43-65	387	All	2304
43-66	388	All	2304
43-67	389	All	2304
43-68	608	All	2304
43-69	609	All	2304
43-70	610	All	2304
43-71	611	All	2304
43-72	651	All	2304
43-73	652	All	2304
43-74	653	All	2304
43-75	695	All	2304
43-76	696	All	2304
43-77	739	All	2304
43-78	740	All	2304
43-79	781	All	2304
43-80	782	All	2304
43-81	783	All	2304
43-82	784	All	2304
43-83	825	All	2304
43-84	826	All	2304
43-85	827	All	2304
43-86	868	All	2304
43-87	869	All	2304
43-88	870	All	2304
43-89	871	All	2304
43-90	872	All	2304
43-91	873	All	2304
43-92	874	All	2304
43-93	911	All	2304
43-94	912	All	2304
43-95	913	All	2304
43-96	914	All	2304
43-97	915	All	2304
43-98	916	All	2304
43-99	917	All	2304
43-100	918	All	2304
43-101	920	All	2304
43-102	953	All	2304
43-103	954	All	2304
43-104	955	All	2304
43-105	956	All	2304
43-106	957	All	2304
43-107	958	All	2304
43-108	959	All	2304
43-109	960	All	2304
43-110	961	All	2304
43-111	962	All	2304
43-112	963	All	2304
43-113	964	All	2304
43-114	993	All	2304
43-115	994	All	2304
43-116	997	All	2304
43-117	998	All	2304
43-118	999	All	2304
43-119	1000	All	2304
43-120	1001	All	2304
43-121	1002	All	2304
43-122	1003	All	2304
43-123	1004	All	2304
43-124	1005	All	2304
43-125	1006	All	2304
43-126	1007	All	2304

OCS OFFICIAL PROTRACTION DIAGRAM, JACKSONVILLE, NH 17-5 (APPROVED APRIL 29, 1975)

Tract No.	Block	Description	Hectares
43-127	25	All	2304
43-128	26	All	2304
43-129	27	All	2304
43-130	28	All	2304
43-131	29	All	2304
43-132	30	All	2304
43-133	33	All	2304
43-134	34	All	2304
43-135	35	All	2304
43-136	36	All	2304
43-137	37	All	2304
43-138	38	All	2304
43-139	68	All	2304
43-140	69	All	2304
43-141	70	All	2304
43-142	71	All	2304
43-143	72	All	2304
43-144	73	All	2304
43-145	74	All	2304
43-146	76	All	2304
43-147	77	All	2304
43-148	78	All	2304
43-149	81	All	2304
43-150	114	All	2304
43-151	115	All	2304
43-152	116	All	2304
43-153	117	All	2304
43-154	118	All	2304
43-155	120	All	2304
43-156	121	All	2304
43-157	122	All	2304
43-158	123	All	2304
43-159	158	All	2304
43-160	159	All	2304
43-161	160	All	2304
43-162	164	All	2304
43-163	165	All	2304
43-164	166	All	2304
43-165	167	All	2304
43-166	168	All	2304
43-167	202	All	2304
43-168	203	All	2304
43-169	207	All	2304
43-170	208	All	2304
43-171	209	All	2304
43-172	210	All	2304
43-173	211	All	2304
43-174	250	All	2304
43-175	251	All	2304
43-176	252	All	2304
43-177	253	All	2304
43-178	293	All	2304
43-179	294	All	2304
43-180	295	All	2304
43-181	296	All	2304
43-182	339	All	2304
43-183	345	All	2304
43-184	382	All	2304
43-185	383	All	2304
43-186	384	All	2304
43-187	389	All	2304
43-188	390	All	2304
43-189	426	All	2304
43-190	427	All	2304
43-191	428	All	2304
43-192	431	All	2304
43-193	432	All	2304
43-194	433	All	2304
43-195	434	All	2304
43-196	470	All	2304
43-197	471	All	2304
43-198	472	All	2304
43-199	475	All	2304
43-200	476	All	2304
43-201	477	All	2304
43-202	478	All	2304
43-203	519	All	2304
43-204	520	All	2304
43-205	521	All	2304
43-206	557	All	2304
43-207	558	All	2304
43-208	559	All	2304
43-209	562	All	2304
43-210	563	All	2304
43-211	564	All	2304
43-212	565	All	2304
43-213	601	All	2304
43-214	602	All	2304
43-215	606	All	2304
43-216	607	All	2304
43-217	608	All	2304
43-218	609	All	2304
43-219	650	All	2304
43-220	651	All	2304
43-221	652	All	2304
43-222	653	All	2304
43-223	696	All	2304
43-224	740	All	2304
43-225	784	All	2304

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 on a lease, including but not limited to well drilling and pipeline and platform placement, the lessee 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 interpretations for the presence of live bottom areas within a minimum one-mile radius of the proposed exploration or production activity site.

For the purpose of this stipulation, live bottom areas are defined as those areas

which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or whose lithotope 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 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 the 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 operations to avoid live bottom areas.

(b) The shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas.

(c) The transportation of drilling fluids and cuttings to approved disposal sites.

(d) The monitoring of live bottom areas to assess 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, hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling 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 "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural evironmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the Supervisor and to the Manager, for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the Supervisor and the Manager, BLM OCS Office, for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, 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 effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its disposition.

STIPULATION No. 3

The lessee shall conduct remote sensing and/or other surveys as specified by the Supervisor to determine the existence of any unexploded ordnance (munitions, mines, or bombs). The lessee's report to the Supervisor should document all indications of mangetic or sidescan sonar anomalies on the sea floor.

STIPULATION No. 4

To provide information to coastal States and thus assist them in planning for the impact of activities during exploration under this lease, the lessee shall submit, for review and comment, to 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 lessee 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 250.34, 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 Supervisor no later than the date of submission of the Exploration Plan, with a 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 Exploration Plans shall not be required to supply additional copies of the Notice, but may instead refer to that prior submission. Before the Supervisor 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 Supervisor.

The Notice shall include with respect to the lessee and his contractors:

(a) A description of the onshore and nearshore support facilities, including site, size, and timeframes expected to be constructed, leased, rented, or otherwise procured in affected areas;

(b) Amount and location of acreage expected to be required within the State for facilities, including the need for storage space for supplies;

(c) An estimate of the frequency of boat and aircraft departures and arrivals, on a monthly basis, and the possible onshore location of terminals;

(d) The approximate number of persons who are expected to be engaged in onshore support activities and transportation, and the approximate number of local personnel who are expected to be employed by or in support of the exploration program;

(e) Estimates of 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;

(f) An estimate of any significant quantity of major supplies, including water and energy, and equipment to 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. 5

Pipelines will be required: (1) if pipeline right-of-way can be determined and obtained, (2) if laying such pipelines is technically feasible and environmentally preferable, and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local government and the industry. Where feasible, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined on a case-by-case basis.

Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Supervisor. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed:

All vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C., 391a).

STIPULATION No. 6

(To be included only in leases resulting from this lease sale for tracts 43-1 through 43-56.)

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of 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, of any person or persons who are agents, employees, or invitees of

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, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents, or employees, being conducted as a part of, or in connection with, the programs and activities of the Operating Area Coordinator, Naval Base, Charleston, S.C. 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 against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractor or subcontractors doing business with the lessee in connection with the programs and activities of 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 his 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 to, 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, his agent, employees, invitees, independent contractors, or subcontractors, will be affected by the commander of the appropriate onshore military installation conducting operations in the particular warning area; *Provided, however,* That control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

(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 prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

STIPULATION No. 7

(To be included only in leases resulting from this lease sale for tracts 43-57 through 43-225.)

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of 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 of any person or persons who are agents, employees, or invitees of 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, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, it contractors or subcontractors, or any of their officers, agents, or employees, being conducted as a part of, or 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 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 against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of 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 Air Station, Jacksonville, Fla., to the degree necessary to prevent damage to, 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, his agents, employees, invitees, independent contractors, or subcontractors, will be affected by the commander of the appropriate military installation conducting operations in the particular warning areas; *Provided, however,* That control of such electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

(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 Air Station, Jacksonville, Fla., utilizing an individual designated warning area prior to commencing such traffic. Such agreements will provide for positive control of boats and aircraft operating into the warning areas at all time.

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 reservoirs underlying this lease 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) and approved by the Supervisor. Such a unit agreement shall provide for the fair and equitable allocation of production and costs. The Supervisor shall prescribe the method of allocating production 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, 43-48, 43-195, 43-202, 43-212, 43-218, and 43-222.

Portions of this tract 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 or until 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.

(b) This stipulation shall apply to tracts 43-97 and 43-98.

Portions of this tract may contain a shallow "Bright Spot" seismic anomaly which may be indicative of a gas deposit. Surface occupancy above this anomaly and drilling through the anomaly will not be allowed unless the lessee can demonstrate to the Supervisor's satisfaction that a potential hazardous accumulation of shallow gas does not exist or that structures (platforms), casing, and wellheads can be placed or drilling plans designed to insure safe operations in the area above the anomaly.

STIPULATION No. 10

(To be included only in leases resulting from this sale for tracts 43-195, 43-202, 43-218, 43-222, and 43-225.)

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of 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, of any person or persons who are agents, employees, or invitees of 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 Contenental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents, or employees, being conducted as a part of, or in connection with, the programs and activities of the Kennedy Space Center. 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 of 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 against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of 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.

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 Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

If nationally recommended routes for boat traffic lanes are established by the Coast Guard, lessees will be required to use them to transport supplies to the lease area.

Bidders are advised that other Federal agencies, including 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 —— 19—.

.....
Notary Public
State of ———.
County of ———.

[FR Doc. 77-35438 Filed 12-8-77; 9:21 am]

[4310-70]

National Park Service

[Order No. 4]

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 conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2. *Revocation.* This order supersedes Order No. 3, Ozark National Scenic Riverways, dated February 17, 1977, and published at 42 FR 12267, March 3, 1977.

(National Park Service Order No. 77 (38 FR 7478) as amended; Midwest Region Order No. 5 (37 FR 6324) as amended.)

Dated: October 12, 1977.

ARTHUR L. SULLIVAN,
Superintendent, Ozark National Scenic Riverways.

[FR Doc. 77-35619 Filed 12-13-77; 8:45 am]

[4310-70]

[Order No. 1]

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 conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

(National Park Service Order No. 77 (38 FR 7478) as amended; Southeast Region Order No. 5 (37 FR 7721) as amended.)

Dated: October 31, 1977.

JOHN H. FLISTER,
Superintendent, Andersonville National Historic Site.

[FR Doc. 77-35618 Filed 12-13-77; 8:45 am]

[4410-01]

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.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 77-35621 Filed 12-13-77; 8:45 am]

[4410-01]

CITY OF YANKTON, S. DAK.

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

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. City of Yankton" was lodged with the U.S. District Court for the District of South Dakota. The proposed decree requires the city to meet a detailed timetable to construct improvements and additions to its wastewater treatment plant; regulate and monitor the discharge of industrial wastewaters to its treatment plant; pay a $10,000 penalty, $7,500 of which is suspended subject to compliance with all other terms of the consent decree; and to otherwise comply with the National Pollution Discharge Elimination System permit covering the city's wastewater treatment plant.

The proposed consent decree may be examined at the office of the U.S. Attorney, 231 Federal Building and U.S. Courthouse, 400 South Phillips Avenue, Sioux Falls, S. Dak. 57102; at the Region VIII Office of the Environmental Protection Agency, Enforcement Division, 1860 Lincoln Street, Denver, Colo. 80295 and at 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 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.

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, Sourth Dakota," D.J. Ref. 90-5-1-1-875.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 77-35622 Filed 12-13-77; 8:45 am]

[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.

[FR Doc. 77-35623 Filed 12-13-77; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-331]

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 licensee's 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 licens-

ee's request by its Office of Nuclear Reactor Regulation and the completion of any environmental review which may be required by the NRC's regulations in 10 CFR Part 51; and (2) when findings required by the Atomic Energy Act of 1954, as amended (the Act) and the NRC's Rules and Regulations have been made.

By January 13, 1978, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of such amendment to the subject facility operating license. Requests for a hearing and/or petitions for leave to intervene shall be filed in accordance with the NRC's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing and/or petition for leave to intervene is filed within the time prescribed in this notice, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the Commission or the designated Atomic Safety and Licensing Board Will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath of affirmation in accordance with the provisions of 10 CFR § 2.714. As required in 10 CFR § 714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which 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 stating contentions relating only to matters outside the Commission's jurisdiction will 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 also 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, 1025 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(a)(1)-(4), 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 action, 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 LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 77-35731 Filed 12-13-77; 8:45 am]

[6325-01]

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

MEETING

Pursuant to section 10 of Pub. L. 92-463, 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 202-653-6263.

W. LANDIS JONES,
Director.

[FR Doc. 77-35547 Filed 12-13-77; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Public Notice CM-7/142]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE 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.
Matters resulting from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

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. 20590. 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.

[FR Doc. 77-35625 Filed 12-13-77; 8:45 am]

[4710-01]

[Public Notice CM-7/143]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE 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 8334 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 Container Transport (GRCT), February 13-17, 1978, Geneva. Major GRCT agenda items to be discussed are:

Implementation of the Convention on Safe Containers (CSC).

Work on Container Standards for International Multimodal Transport.

Work on a Convention on International Multimodal Transport.

Ownership and Leasing of Containers.

U.S. role in regard to GRCT discussions on piggyback carriage.

Suggestions for new discussion items.

General discussion by Customs offficals of matters relating to the Customs Conventions and TIR Conventions.

Debriefing of the Fourth Session of the Intergovernmental Preparatory Group on International Multimodal Transport. November 14-15, Geneva.

Other Business.

Necessary documents will be distributed as early as possible.

Any questions concerning this meeting should be directed to Mr. Richard E. Johe, Department of State, 202-632-1313.

Comments from the public will be welcomed.

Dated: December 7, 1977.

CARL TAYLOR, Jr.,
Acting Chairman, Shipping Coordinating Committee.

[FR Doc. 77-35626 Filed 12-13-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[No. 545]

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 prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 127974 (Sub-No. 9), P. Liedtka Trucking, Inc., now assigned December 15, 1977, at Washington, D.C., is postponed to February 16, 1978, at the Offices of the Interstate Commerce Commission in Washington, D.C.

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 113434 (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 121644 (Sub-No. 2), S & W Freight Lines, Inc., now being assigned January 24, 1978 (2 days), at Memphis, Tenn., and will be held at the Executive Plaza Inn, 1471 East Brooks Road at I-55.

MC-F-13329, Florida Texas Freight, Inc.—Investigation of Control—Flamingo Transportation, Inc. & Tarpon Transportation, Inc., now being assigned January 31, 1978 (4 days), at Tampa, Fla., February 6, 1978 (1 week), at Miami, Fla., 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, Kans., and will be held in the Emporia Room, Holiday Inn, I-35 and Industrial.

MC 118202 (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 584, Federal Building, 5th Floor, 316 North Robert Street.

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. 77-35656 Filed 12-13-77; 8:45 am]

[7035-01]

[Docket No. 36698]

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 prearranged sheduling 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. MC 88, Detention 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 7, 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 addressed 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, with reply by petitioner any supporting party due 20 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-717), for interested rail carriers.

Rates on machinery, hoisting, etc., transported on flat cars, as described in the application, from Pocatello, Idaho, to points in southwestern territory.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 314 to Southwestern Freight Bureau, Agent, tariff 270-F, ICC No. 4832.

Rates are published to become effective on January 13, 1978.

FSA No. 43478—*Soda Ash to Oak Point, La.* Filed by Southwestern Freight Bureau, Agent (No. B-718), for interested rail carriers.

Rates on soda ash (other than modified soda ash), in bulk, in covered hopper cars, as described in the application, from Alchem, Stauffer, Tg Soda and Westvaco, Wyo., to Oak Point, La.

Grounds for relief—Rate relationship.

Tariff—Supplement 314 to Southwestern Freight Bureau, Agent, tariff 270-F, ICC No. 4832.

Rates are published to become effective on January 13, 1976.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-35658 Filed 12-13-77; 8:45 am]

[7035-01]

[Notice No. 157TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 28, 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 of 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 portestant 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 50069 (Sub-No. 526TA), filed November 14, 1977. Applicant: REFINERS TRANSPORT & TERMINAL CORP., 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: William P. Fromm (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 South King Street, Robinson, Ill. 62454. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 103051 (Sub-No. 413TA), filed November 15, 1977. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). 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., 2855 Coolidge Highway, suite 202, Troy, Mich. 48084. Send protests to: District Supervisor Joe J. Tate, Bureau of Operations, Interstate Commerce Commission, suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 109533 (Sub-No. 97TA), filed October 20, 1977. Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes Avenue, Richmond, Va. 23224. Applicant's representative: C. H. Swanson, P.O. Box 1216, Richmond, Va. 23224. 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 requiring special equipment) between Kentucky-Virginia State line and junction U.S. Highway 460 and U.S. Highway 19 at or near Claypool Hill, Va., serving no intermediate points. From Kentucky-Virginia State line over U.S. Highway 460 to junction U.S. Highway 460 and U.S. Highway 19 at or near Claypool Hill, Va., and return over the same route, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are no supporting shippers to this application. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, room 10-502 Federal Building, 400 North 8th Street, Richmond, Va. 23240.

No. MC 109689 (Sub-No. 318TA), filed November 11, 1977. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal Feed Supplements*, in bulk, in tank vehicles, from Bisbee, Ariz., to Anaheim, Calif., for 180 days. Supporting shipper: Delst Chemical, 1156 North Fountain Way, Anaheim, Calif. 92806. P.O. Box 2392, Fullerton, Calif. 92633 (R. Dean Thomas, President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 125 South State Street, 5301 Federal Building, Salt Lake City, Utah 84138.

No. MC 111170 (Sub-No. 244TA), filed November 14, 1977. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 North West Avenue, El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore, P.O. Box 1718, El Dorado, Ark. 71730. 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. Send protests to: District Supervisor William H. Land, Jr., 3180 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 114569 (Sub-No. 197TA), filed October 26, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in sections A and C 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 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: MBPXL Corp., Box 2519, Wichita, Kans. 67201. Send protests to: C. F. Myers, District Supervisor, Interstate Commerce Commission, Box 869, Federal Square Station, Harrisburg, Pa. 17108.

No. MC 115496 (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 Tuscaloosa, Ala., 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: Tamko Asphalt Products, Inc., 601 North High Street, Joplin, Mo. 64801. 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 116459 (Sub-No. 67TA), filed November 14, 1977. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Pineville Road, Chattanooga, Tenn. 37405. Applicant's representative: Charles T. Williams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferric chloride*, in bulk, in tank vehicles, from Knoxville, Tenn., to Bristol, Tenn.-Va. Restricted to movements having a prior movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. DuPont de Nemours and Co., 1007 Market Street, Wilmington, Del. 19898. Send protests to: District Supervisor Joe J. Tate, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 117119 (Sub-No. 661TA), filed November 14, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except commodities in bulk), from Gonzales, Tex., 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., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 124144 (Sub-No. 19TA), filed November 7, 1977. Applicant: ROBERT N. TOOMEY, d.b.a. ROBERT N. TOOMY TRUCKING CO., 1516 South George Street, 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: *Chain and attachments and hardware therefor, cable, wire rope, and chain manufacturing machinery and equipment*, from York, Pa. and its commercial zone, to points in Florida, Georgia, North Carolina, South Carolina, Arkansas, Alabama, Tennessee, Missouri, Kansas, Louisiana, and Mississippi, under a continuing contract or contracts with Campbell Chain Co., for 180 days. Supporting shipper: Campbell Chain Co., 13790 East Market Street, York, Pa. 17405. Send protests to: Mr. Charles F. Myers, District Supervisor, Interstate Commerce Commission, Box 839, Federal Square Station, Harrisburg, Pa. 17108.

No. MC 128202 (Sub-No. 39TA), filed November 7, 1977. Applicant: BULK-MATIC TRANSPORT COMPANY, 12000 South Doty Avenue, Chicago, Ill. 60628. Applicant's representative: Arnold L. Burke, 180 North La Salle 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 Hydralic Press Brick, Brooklyn, Ind., to the plantsite of Ferro Engineering, Calumet City, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Ferro Engineering-Div. of Oglebay 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: 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. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, from Denver and Fort Morgan, Colo. and Chicago and Rochelle, Ill., to Philadelphia, Pa., under a continuing contract or contracts with A. Servetnick & Sons, of Philadelphia, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. Servetnick & Sons, 428 North 9th Street, Philadelphia, Pa. Send protests to: Mr. Charles F. Myers, District Supervisor, Interstate Commerce Commission, Box 869, Federal Square Station, Harrisburg, Pa. 17108.

No. MC 141255 (Sub-No. 12TA), filed October 28, 1977. Applicant: TANDY TRANSPORTATION, INC., P.O. Box 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: *Such commodities* as are dealt in by electronic equipment supply stores, *materials and store supplies* (except commodities 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, points in California, Nevada, 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, 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., 1600 No. 1 Tandy Center, Fort Worth, Tex. 76102. Send protests to: Robert J. Kirspel, District Supervisor, room 9A27 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

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 El Fuego Corp., located at or near Oakville, Conn., to the plantsites and storage facilities of Plywood Minnesota, Inc., located at or near Fargo, N. Dak.; Des Moines, Dubuque, Mason City, Iowa; Omaha, Nebr.; 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 shipper: Kate-Lo Minnesota (a subsidiary of Kate-Lo Ceramics, Inc.), 6750 West Broadway, Minneapolis, Minn. 55428. 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 142608 (Sub-No. 3TA), filed November 10, 1977. Applicant: ASCENZO BROTHERS, INC., 535 Brush Avenue, Bronx, N.Y. 10465. Applicant's representative: John L. Alfano, Roy A. Jacobs, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, between Philadelphia, Pa. on the one hand, and, on the other, points in Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, under a continuing contract or contracts with Interstate Iron & Supply Co., for 180 days. Supporting shipper: Interstate Iron & Supply Co., 1800 East Byberry Road, Philadelphia, Pa. 19116. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

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 points in Georgia, New Jersey, 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 Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, room 1259, Syracuse, N.Y. 13260.

No. MC 143160 (Sub-No. 1TA), filed November 4, 1977. Applicant: JERRY INMAN TRUCKING, INC., route 2, Box 43-A, Mounds, Okla. 74047. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. 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: Joe Green, District Supervisor, room 240, Old Post Office and Court House Building, 215 Northwest 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. 63645. Applicant's representative: William C. Sheets (same address as applicant). 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. Supporting shipper: Tucker Lumber & Pallet Co., Hiway 34 East, Silva, Mo. 63964. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No MC 143374 (Sub-No. 2TA), filed November 3, 1977. Applicant: DENNIS J. DURBIN, d.b.a. DURBIN TRANSPORT, 12400 Goodhill Road, Wheaton, Md. 20906. Applicant's representative: H. Neil Garson, 3251 Old Lee Highway, suite 400, Fairfax, Va. 22030. Authority sought to operate as a *contract 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 Newport News, 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 shipper(s): Betco Block and Products, Inc., 5400 Butler Road, Bethesda, Md. 20906. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., room 1413, Washington, D.C. 20423.

No. MC 143590 (Sub-No. 2TA), filed October 13, 1977. Applicant: NEW HAMPSHIRE CONTINENTAL EXPRESS, INC., P.O. Box 4956, Manchester, N.H. 03108. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, particleboard, hardboard, mouldings, plastic articles*, and the accessories used in the installation thereof, from the plantsites and warehouse facilities utilized by Weyerhaeuser Co. and Plywood Panels, 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: Weyerhaeuser Co., 201 Dexter Street, Chesapeake, Va. 23324. Attn: Gordon T. Adams, General Transportation Manager, Plywood Panels, Inc., P.O. Box 12678, Norfolk, Va. 23502. Attn: Andrew S. Chisholm, Traffic Manager. Send protests to: 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., 800 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 household goods*, between points in Brevard, 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 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Department of Defense, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310. (2) DeWitt Freight Forwarding, 6060 North Figueroa Street,

Los Angeles, Calif. 90042. (3) Intercontinental Export Ltd. 7956 Twist Lane, Springfield, Va. 22150. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 143763 (Sub-No. 1TA), filed November 14, 1977. Applicant: JERRY ZEIG, d.b.a. JERRY'S TOWING, 4727 North Cliff, Sioux Falls, S. Dak. 57103. Applicant's representative: M. Mark Menard, P.O. Box 480, Sioux Falls, S. Dak. 57103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, replacement, stolen, or repossessed vehicles*, between points in South Dakota and points in North Dakota, Illinois, Iowa, Minnesota, Nebraska, Kansas, Wisconsin, Missouri, Montana, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: All-American Transport, Inc., 900 W. Delaware, Sioux Falls, S. Dak. 57101, Ronald Dykstra, Shop Supervisor. International-Harvester Co., 1401 N. Minnesota Avenue, Sioux Falls, S. Dak. 57101, Dale A. Johnson, Service Manager. Holcomb White Trucks, Inc., I-29 and 38A, Sioux Falls, S. Dak. 57101, G. S. Holcomb, President. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 143838 (Sub-No. 1TA), filed October 26, 1977. Applicant: W. PETER RONSON JR. & SONS, INC., 2823 Carmen Road, Middleport, N.Y. 14105. Applicant's representative: George V. C. Muscato, 231 S. Transit Street, Lockport, N.Y. 14094. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Apple juice*, in tank vehicles, Appleton, N.Y. to Northeast, Pa., via Routes N.Y. 78 and U.S. 90 to Pa. State line exit Appleton, N.Y., to Freemont, Mich. via Routes N.Y. 78 and U.S. 90, Mich. 23, U.S. 96 and County 37, alternate Route N.Y. 31 to Canada 20, 9, 401 to U.S. 96 and County 37, under a continuing contract or contracts with Cornucopia Farms, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cornucopia Farms, Lake Road, Appleton, N.Y. 14008. Send protests to: District Supervisor, Interstate Commerce Commission, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 143898TA, filed October 27, 1977. Applicant: DONALD BUEHRING, 6860 Clairville Road, Oshkosh, Wisc. 54901. Applicant's representative: Rolfe E. Hanson, 121 W. Doty Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk or bags, between the plantsite, warehouse, and storage facilities of International Minerals and Chemical Corp., Rainbow Division, at Eldorado and Dodgeville, Wis.; Nappanee, Ind.; Erie, Union, Riverdale, and Garden Prairie, Ill., and between such points, on the one hand, and points in Wisconsin and Michigan, on the other hand, restricted to service to be performed, under a continuing contract or contracts with International Minerals and Chemical Corp., Rainbow Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Minerals and Chemical Corp., Rainbow Division, P.O. Box 98, Eldorado, Wis. 54932 (B. M. Egan) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 143908TA, filed October 31, 1977. Applicant: GEORGE F. GREEN TRANSPORT, INC., 701 Hardeman Avenue, Ft. Valley, Ga. 31030. Applicant's representative: Kim G. Meyer, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insecticides, pesticides, herbicides, fungicides, and agricultural chemicals*, in packages, between Peach, Dougherty, Worth, and Turner Counties, Ga. on the one hand and, on the other, points in Alabama, Florida, South Carolina, and Tennessee (except Greenville, S.C., Chattanooga and Copperhill, Tenn., and points in their commercial zones), (2) *Clay*, in bags, from Gadsden County, Fla. to points in Peach County, Ga., for 180 days. Supporting shipper(s): Woolfolk Chemical Works, Inc., P.O. Box 938, Fort Valley, Ga. 31030. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 143938TA, filed October 31, 1977. Applicant: P. & H. TRUCKING CO., INC., 184 West 33d South, Salt Lake City, Utah 84115. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, from Georgia, to the plantsite or storage facilities of Midwest Floor Coverings, Inc. at South Lake, Utah, for 180 days. Supporting shipper(s): Midwest Floor Coverings, Inc., 810 West 2500 South, South Salt Lake, Utah 84119 (John M. Parrish Secretary-Treasurer). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 143939TA, filed November 3, 1977. Applicant: GERALD N. EVENSON, INC., 835 First Street SW., P.O. Box 328, Pelican Rapids, Minn. 56572. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bagged insulation*, from Barrett and Vergas, Minn., to points in Colorado, Illinois, Iowa, Kansas, Michigan, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming; and (2) *scrap paper, waste products for recycling, and other materials and supplies* used in the manufacture and distribution of bagged insulation (except commodities in bulk, in tank vehicles), from points in the United States to Barrett and Bergas, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): H & N Insulation, Inc., Barrett, Minn. 56311; Paul's Insulation, Inc., P.O. Box 115, Vergas, Minn. 56587. Send protests to: Ronald R. Mau, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 268, Federal Building and U.S. Post Office, 657 2d Avenue North, Fargo, N. Dak. 58102.

No. MC 143940TA, filed November 4, 1977. Applicant: ANDERSON TRUCK & TERMINAL, INC., P.O. Box 157, Grand Saline, Tex. 75140. Applicant's representative: Wilburn L. 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 irregular routes, transporting: *Dry sulphur*, from the facilities of Agri-Sul, Inc., at or near Mineola, 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 13C12, Dallas, Tex. 75242.

No. MC 143969TA, filed November 14, 1977. Applicant: V & H TRANSFER, INC., 550 North 19th Street, Murphysboro, Ill. 62966. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill.

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 Murphysboro, 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 Distribution, 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, Murphysboro, Ill. 62966; 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 regular routes, transporting: *Roofing materials*, from Dallas, Tex., to Stroud, Okla., and from Stroud, Okla., to Dallas, Tex., under a continuing contract or contracts, with Pfeil & Sons, for 180 days. Supporting shipper: Pfeil & 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

No. MC 143900TA, filed October 28, 1977. Applicant: JOSEPH R. BREY III, 835 North 28th Street, Allentown, Pa. 18104. Applicant's representative: Joseph R. Brey III, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in same vehicle with passengers, between Allentown, Pa., and Atlantic City, N.J., for 180 days. Supporting shipper(s): (1) John C. Locher, 2814 Walbert Avenue, Allentown, Pa. 18104; (2) Joseph H. Thomas, R.D. No. 1, Orefield, Pa. 18069; (3) Kathleen Reed, 2525 South 5th Street, Allentown, Pa. 18103. Send protests to: Monica A. Blodgett, Transportation Consumer Specialist, Interstate Commerce Commission, 600 Arch Street, room 3238, Philadelphia, Pa. 19106.

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 in 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 imcomplete 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-reasoned 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 before the Commission may consider an application under section 210a(b), the commentators repeatedly noted the difficulty in obtaining data for certain of the exhibits required by the forms prescribed for applications under section 5 (Forms OP-F-44 and OP-F-45). The three items commonly mentioned as presenting problems are the abstracts of shipments handled by the transferor, financial statements relating to the transferor, and the "giving effect" balance sheet and income statement. In addition, some commentators observed that directly related applications for converstion or for gateway elimination must, pursuant to the requirements of Form OP-OR-9, include certificates of support, and that gathering that material usually consumes a great deal of time.

Asserting that these four elements would often be unavailable or inaccessible in time to prevent a cessation of operations by tendering a technically complete application for temporary authority, the commentators maintain that strict adherence to the provisions in the statement would frustrate the protective purpose of section 210a(b). Many offered amendments to the provisions which would variously permit partial filing where an applicant seeks temporary authority. Only one comment sought to justify the filing of an incomplete application under section 5 where temporary authority was not involved, the author representing that where the transferee and transferor are under common control the Commission should not require submission of an abstract of shipments.

Upon reconsideration of the provisions of the notice dated June 13, 1977, and in light of the comments received, we have revised the original statement to reflect more forcefully our intention in initiating this proceeding. The notice was intended to inform the public that the provisions of the Commission's general rules of practice, 49 CFR Part 1100, governing the filing of applications, will in the future be more stringently enforced in our continuing effort to expedite the administration of our mandate under the Act. In particular, rule 4(c), 49 CFR § 1100.4(c), provides that when upon inspection the Commission is of the opinion that an application does not sufficiently set forth required material or is otherwise insufficient, the Commission may decline to accept the item for filing and return it unfiled, or may accept it for filing, docket it, and advise the person tendering it of the deficiency and require correction. Rule 36, 49 CFR § 1100.36, requires applications filed with the Commission to be prepared in accord with and contain the information called for in the form of the application prescribed or any instructions which may have been issued by the Commission with respect to the filing and service of an application.

Although we recognize the need to address in each particular instance the concerns expressed by the commentators, we do not consider their proposed amendments to permit an adequate response to the problem presented by the tender of deficient finance applications. The Commission hereby forewarns prospective applicants that it will more rigidly impose observance of rules 4(c) and 36, effective immediately. Public assistance with finance and other filings is now available from the Commission's Office of Small Business Assistance.

The notice dated June 13, 1977, is superseded and the proceeding is discontinued.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-35659 Filed 12-13-77; 8:45 am]

[7035-01]

[Notice No. 158]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 23, 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'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 shipper(s): California Canners & Growers, P.O. Box 1237, Fond du Lac, Wis. (Charles Augustine). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 26396 (Sub-No. 159TA), filed November 3, 1977. Applicant: POPELKA TRUCKING 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: (1) *Foodstuffs* (except frozen), from the plantsites and facilities utilized by Del Monte Corp. at or near Rochelle, Mendota, and DeKalb, Ill.; Plover, Markesan, Arlington, Wis.; and Frankfort, Ind., to points in Indiana, Illinois, Iowa, Kentucky, Michigan, Minnesota, Ohio, West Virginia, Wisconsin, New York, Pennsylvania, Missouri, and New Jersey; and (2) *pallets,* from points 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 shipper(s): 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 69397 (Sub-No. 30TA), filed November 7, 1977. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, U.S. Route 13, Pocomoke City, Md. 21851. Applicant's representative: Wilmer B. Hill, 666 Eleventh Street NW., Suite 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plywood, hardboard, particleboard, furniture stock panels, wood dimention stock, and compressed fiberboard,* from Boston, Mass., to points in Delaware, Georgia, Illinois, Indiana, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, West Virginia, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allied International, Inc., 490 Rutherford Avenue, Charlestown, Mass. 02129. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, D.C. 20423.

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 A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Prepared animal feeds,* from Rolla, 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 shipper(s): Bow Wow Co., P.O. Box 938, Rolla, Mo. 65401. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 105501 (Sub-No. 23TA), filed November 9, 1977. Applicant: TERMINAL WAREHOUSE CO., 1851 Raddison Road NE., Blaine, Minn. 55434. Applicant's representative: Joseph J. Dudley, W-1260 1st National Bank Building, St. Paul, Minn. 55101. 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 shipper(s): Paper Calmenson and Co., P.O. Box 3432, St. Paul, Minn. 55165. Send protests to: Marion L. Cheney, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 105566 (Sub-No. 154TA), filed November 15, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, 6901 Old Keene Mill Road, Suite 406, Executive Building, Springfield, Mo. 22150. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Platics 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 Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Sup-

porting shipper(s): Northern Petrochemical Co., 2350 East Devon Avenue, Des Plaines, Ill. 60018. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 106074 (Sub-No. 49TA), filed October 31, 1977. Applicant: B AND P 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: *Merchandise* dealt in by wholesale, retail, chain grocery, and food business houses, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Springfield, Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia, restricted to traffic originating at the above named origin and destined to the above named destination points, for 180 days. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 107403 (Sub-No. 1044TA), filed November 7, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bulk, in tank vehicles, from Bath and Langley, S.C., to Wooster, Ohio, for 180 days. Supporting shipper(s): Rubbermaid Inc., 1147 Akron Road, Wooster, Ohio 44691. Send protests to: Monica A. Blodgett, Transportation Consumer Specialist, Interstate Commerce Commission, 600 Arch Street, room 3238, Philadelphia, Pa. 19106.

No. MC 107515 (Sub-No. 1111TA), filed November 15, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alen E. Serby, 3379 Peachtree Road NE., suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas and agricultural commodities*, otherwise exempt from economic regulation under section 203(b)6 of the Act, when transported in mixed loads with bananas, in intermodal containers, and (2) *empty intermodal containers, and trailer chassis*, between Gulfport, Miss., on the one hand, and, on the other, points in Missouri for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chiquita Brands, Inc., 212 Veterans Boulevard, Metairie, La. 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 109689 (Sub-No. 319TA), filed November 11, 1977. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonical etchants*, in bulk, from Casa Grande, Ariz., to Los Angeles, San Francisco, Calif., Portland, Oreg., Seattle, Wash., Phoenix, Ariz., Salt Lake City, Utah, Denver, Colo., Albuquerque, N. Mex., and the return of spent materials, from destinations above to Casa Grande, Ariz., for 180 days. Supporting shipper(s): Van Waters & Rogers, 2600 Campus Drive, San Mateo, Calif. 94403. (William J. Cody, Purchasing Manager.) Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

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: Walter S. Dail, 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, wire drawing compounds and lubricating oils*, in bulk, in tank vehicles, from the plantsite 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 points in Arkansas, Georgia, Indiana, Iowa, Louisiana, Missouri, Nebraska, Pennsylvania, Tennessee, Texas, Virginia, Elkridge, Maryland, and Austin, Minn., to the plantsite of the Ironside Co. at Columbus, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up 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, 500 Quarrier Street, Charleston, W. Va. 25301.

No. MC 113267 (Sub-No. 354TA), filed October 31, 1977. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Road, P.O. Box 30130 AMF, Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer, 3215 Tulane Road, P.O. Box 30130 AMF, Memphis, Tenn. 38130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise*, dealt in by wholesale, retail, and chain grocery and food business houses, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Springfield, Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, Oklahoma, South Carolina, North Carolina, Tennessee, Texas, and Virginia, restricted to traffic originating at the above named origin and destined to the above named destination states, for 180 days. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 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.

No. MC 114569 (Sub-No. 196TA), filed October 26, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, Pa. 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise*, as is dealt in by retail and wholesale department and hardware stores (except foodstuffs and commodities in bulk, (1) from points in that part of the United States in and east of Alabama, New York, Pennsylvania, Tennessee, Virginia, and West Virginia, to the facilities of Coast-to-Coast Stores Central Organization, Inc., located at or near Crawfordsville, Ind., and (2) from points in that part of the United States in and east of Alabama, Indiana, Kentucky, Michigan, and Tennessee, to the facilities of Coast-to-Coast Stores Central Organization, Inc., located at Kansas City, Mo., and (3) from points in that part of the United States in and east of Alabama, Illinois, Missouri, Tennessee and Wisconsin, to the facilities of Coast-to-Coast Stores Central Organization, Inc., located at or near Brookings, S. Dak., and (4) from points in that part of the United

States in and east of Alabama, Illinois, Missouri, Tennessee, Minnesota, and Wisconsin, to the facilites 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: Chester G. Groebel, 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, Tenn. 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Kraft, Inc., at Springfield, Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia, restricted to traffic originating at the above named origin point and destined to the above named destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 117344, (Sub-No. 264TA), filed November 17, 1977. Applicant: THE MAXWELL CO., 10380 Evendale Drive, P.O. Box 15010, Cincinnati, Ohio 45215. Applicant's representative: John C. Spencer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfur trioxide*, in bulk, in shipper-owned tank trailers, from the plantsite of E. I. du Pont de Nemours & Co., at Columbia Park, Ohio, to Denver, Colo., for 180 days. Supporting shipper(s): Charles W. Verna, Jr., Senior Transportation Coordinator, E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898. Send protests to: Paul J. Lowry District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio. 45202.

No. MC 118318, (Sub-No. 31TA), filed November 2, 1977. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, 419 West Karcher Road, Nampa, Idaho 83651. Applicant's representative: Timothy Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, and chain grocery and food business houses, from the facilities of White King, Inc., at or near Los Angeles, Calif., and the facilities of Lever Brothers Co., at or near City of Commerce or Richmond, Calif. To points in Box Elder, Cache, Davis, Morgan, Salt Lake, Tooele, Utah, and Webber Counties, Utah, for 180 days. Applicant 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) Lever Brothers Co., 6300 East Sheila, Los Angeles, Calif. 90040; White King, Inc., 617 East First Street, Los Angeles, Calif. 90012. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 119399 (Sub-No. 72TA), filed October 28, 1977. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, Mo. 64801. Applicant's representative: Dean Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by wholesale, retail, chain grocery and food business houses, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Springfield, Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, Oklahoma, South Carolina, North Carolina, Tennessee, Texas, and Virginia, for 180 days. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

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: *Fly ash*, in bulk, in tank vehicles, from Lansing, Iowa, to points in the Minneapolis-St. Paul, Minn., Commercial zone, for 180 days. Supporting shipper(s): American Admixtures Corp., 5909 North Rogers, Chicago, Ill. 60646. (Steven H. Fullington.) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 516 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

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: *Salt and salt products*, from the facilities of Cargill, Inc., at or near Clarksville, Ind., to points in Kentucky and Indiana, Louisville, Lexington, Bowling Green, Paducah, and Owensboro, Ky., Indianapolis, Evansville, Bloomington, Terre Haute, and Vincennes, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc., John Labriola, General Transportation Manager, Salt Department No. 21, P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 129326 (Sub-No. 27TA), filed November 4, 1977. Applicant: CHEMICAL TANK LINES, INC., Highway 60 West, P.O. Box 432, Mulberry, Fla. 33860. Applicant's representative: Keith Alexander, Highway 60 West, P.O. Drawer 437, Mulberry, Fla. 33860. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed grade phosphoric acid*, in bulk, in tank vehicles, from New Wales, Fla., (approximately 10 miles southwest of Mulberry, Fla., just on the Polk County side of the Polk-Hillsborough County lines), to Baltimore, Md., for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): International Minerals & Chemical Corp., 421 East Hawley Street, Mundelein, Ill. 60060. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Bldg., Suite 101, 8410 Northwest 53d Terrace, Miami, Fla. 33166.

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, Illinios, Iowa, Nebraska, Minnesota, Wisconsin, Colorado, and Kentucky, restricted to traffic originating at the above named plantsites and destined to points in the named destination states, for 180 days. Supporting shipper(s): Duffy-Mott Co., Inc., 370 Lexington Avenue, New York, N.Y. 10017. Send Protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 134783 (Sub-No. 39 TA), filed November 8, 1977. Applicant: DIRECT SERVICE, INC., P.O. Box 2491, 940 East 66th Street, Lubbock, Tex. 79408. Applicant's representative: Charles M. Williams, 1600 Sherman, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baling or binding wire, iron or steel* (except in bulk), from the plantsite and storage facilities of Cavert Wire Co., at or near Uniontown, Pa., to all points in Alabama, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, Texas, Arizona, New Mexico, California, and Memphis, Tenn., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cavert Wire Co., Inc., P.O. Box 1167, Uniontown, Pa. 15401. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 138198 (Sub-No. 4TA), filed October 21, 1977. Applicant: SPD TRUCK LINE, INC., Opalena at Cottage, Abilene, Kans. 67401. Applicant's representative: William B. Barker, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by wholesale or retail discount or variety stores, (1) from points in Arkansas, Colorado, Iowa, Kansas, Missouri, Nebraska, New Mexico, Oklahoma and Texas, to points in South Dakota, and (2) from points in South Dakota, to Colorado, Iowa, Kansas, Nebraska, New Mexico and Texas, under a continuing contract, or contracts, with Duckwall Stores, Inc., for 180 days. Applicant states it does not intend to tack or interline. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Duckwall Stores, Inc., Opalena at Cottage Streets, Abilene, Kans. 67410. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, Kans. 66683.

No. MC 141914 (Sub-No. 26TA), 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 *adhesives* 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, Room 240 Old Post Office and Court House Building, 215 Northwest 3d, Oklahoma City, Okla. 73102.

No. MC 142508 (Sub-No. 13TA), filed November 7, 1977. Applicant: NATIONAL TRANSPORTATION, INC., 14031 L Street, P.O. Box 37465, Omaha, Nebr. 68137. Applicant's representative: Lanny N. Fauss (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsite and/or warehouse facilities utilized by Iowa Beef Processors, Inc., at or near Denison and Ft. Dodge, Iowa., Luverne, Minn., Dakota City and West Point, Nebr., to points in Connectiut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., R. E. Gillespie, Manager—Rates and Regional Affairs, Dakota City, Nebr. 68731. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 142686 (Sub-No. 2TA), filed October 31, 1977. Applicant: MIDWESTERN TRANSPORT, INC., 5320 Industrial Road, Fort Wayne, Ind. 46825. Applicant's representative: Miles L. Kavaller, Mandel & Kavaller, 315 South Beverly Drive, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass, panels*, (1) from Santa Monica, Calif., to Brookport, Cleveland, Ohio, with the right to stop, enroute, at points in Nevada, Colorado, Kansas, Nebraska, Missouri, Illinois, Indiana, Michigan, Kentucky, and Ohio; and (2) from Santa Monica, Calif. to Nola (New Orleans), La., with the right to stop, enroute, at points in Arizona, New Mexico, Oklahoma, Texas, Mississippi, Arkansas, Tennessee and Louisiana, under a continuing contract or contracts with Ornyte Fiberglass, a Division of Berdon, Inc., for 180 days. Supporting shipper(s): Ornyte Fiberglass, a Division of Berdon, Inc., 711 Olympic Boulevard, Santa Monica, Calif. 90401. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802

No. MC 143460 (Sub-No. 1TA), filed November 2, 1977. Applicant: B.A.L. TRANSFER, INC., 7926 E. Baltimore Street, Baltimore, Md. 21224. Applicant's representative: William J. Little, 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), and Classes A & B explosives, between points and places in the Baltimore Commercial zone and terminal area as defined by the Interstate Commerce Commission, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Albert C. Haeger, President, William H. Masson, Inc., Keyser Building, Baltimore, Md. 21202. (2) Warren L. Miller, Assistant Manager and Liner Services, TTT Ship Agencies, Inc., First National Bank Building, Baltimore, Md. 21202. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 143798 (Sub-No. 1TA), filed October 31, 1977. Applicant: HAROLD

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, Fort Bend, Galveston, Brazoria, Waller, Liberty, Chambers, Jefferson, Hardin, Tyler, Polk, San Jacinto, Walker, Trinity, Houston, Leon, Madison, Austin, Colorado, Wharton, Jackson, and Matagorda Counties, Tex., 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): Department of Defense, Joint Personal Property Shipping Office, Joint Personal Property Shipping Office Building, 326, Ellington AFB, Tex. 77209. Send protests to: 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., 4301 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 TRANSPORTATION, INC., 4909 Reading Street, Dallas, Tex. 75247. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 Ten Main Center, Kansas City, Mo. 64141. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* 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, Tex., 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. 62712. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, room 13C12, Dallas, Tex. 75242.

No. MC 143945 (Sub-No. 1TA), filed November 7, 1977. Applicant: AR-TRANSPORT, INC., 2706 South Nelson Avenue, Arlington, Va. 22206. Applicant's representative: Leonard A. 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. 20008. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., room 1413, Washington, D.C. 20423.

No. MC 143946TA, filed November 7, 1977. Applicant: ROYAL TRANSPORT, INC., P.O. Box 4097, Irving, Tex. 75061. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark. 72756. 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, 61 MCC 283, appendix VII, from the plantsite 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., 566 Seventh Avenue, New York, N.Y. 10018. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 143951TA, filed November 4, 1977. Applicant: WESTCO TRUCKING, INC., 5206 Dixie Highway, Louisville, Ky. 40216. 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 9300, Minneapolis, Minn. 55440. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 143963TA, filed November 11, 1977. Applicant: P. J. LOMBARDI TRUCKING, INC., 1308 71st Street, Brooklyn, N.Y. 11228. 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 and Los Angeles, Calif.; Dallas, Tex.; and Seattle, Wash., and their respective commercial zones, under a

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. Kejss, 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 *contract 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 Wisconsin, 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 52406. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143979TA, filed November 14, 1977. Applicant: BEAVER STATE MOVING & STORAGE, INC., P.O. Box 1007, 33905 Southeast Eastgate Circle, Corvallis, Oreg. 97330. Applicant's representative: George J. Moshofsky (same address as applicant). Authority sought to operate as a *common carier*, 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. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, Oreg. 97204.

No. MC 143988TA, filed November 11, 1977. Applicant: JAMES W. TATE, d.b.a. JAMAR TRUCKING, 5377 Fleetway Avenue, Memphis, Tenn. 38118. Applicant's representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Polar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, in containers, furnished by the shipper, from Gulfport, Miss.; to St. Louis, Kansas City, Mexico, Scott City, and St. Joseph, Mo.; Oklahoma City and Tulsa, Okla.; Cook, Will, DuPage, Kane, Roselle, Lake, and McHenry Counties, Ill.; and Peoria and Milan, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chiquita Brands, Inc., 212 Veterans Boulevard, Metairie, La. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 143992TA, filed November 14, 1977. Applicant: LANE COUNTY MOVING & STORAGE, INC., 600 South Seneca Road, Eugene, Oreg. 97402. Applicant's representative: Michael L. Buunner, 2906 Cheryl Street, Eugene, Oreg. 97401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Lane County, Oreg., for 180 days. Supporting Shipper(s): Base Procurement Office, Department of the Air Force, Kingsley Field, Oreg. 97601. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

PASSENGER APPLICATION

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. Hanthron, 1500 Jackson Street, Dallas, Tex. 75201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, between Portsmouth, Lucasville, Clifford, Piketon, Waverly, Limerick, Hingby, Renick, Chillicothe, Delerano, Kingston, Dorney, Circleville, Ritts, Ashville, Duvall, Miner, Valley Crossing, Columbus, Bannon, Wirthington, Lewis, Center, Delaware, Froyton, Waldo, Marion, Harvey, Monnett, Bucyrus, Ridgeton, 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 originating at or destined 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., Hersman, 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.

COMMENTS MUST BE RECEIVED ON OR BEFORE January 13, 1978.

ADDRESSES: Send written responses to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erendberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7292).

SUPPLEMENTAL INFORMATION: Reisfeid & 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

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 above. Anyone 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.

[FR Doc. 77-35696 Filed 12-13-77; 8:45 am]

[7035-01]

[Notice No. 156TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

November 28, 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'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 30605 (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 commodities requiring special equipment), between Houston, Tex., including Houston Commercial Zone and Dallas, Tex., from Houston via Interstate Highway 45 to Dallas, and return via the same route, serving no intermediate points, for 180 days. Applicant intends to tack at Dallas, Tex., and to interline at Houston, and Dallas, Tex. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (90) 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: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202. The purpose of this republication is to state applicant's intentions of tacking and interlining as stated above.

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: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from the facilities of Penn-Dixie Industries, Inc., in Emmet County, Mich., to Illinois, Indiana, Wisconsin, and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Penn-Dixie Industries, Inc., P.O. Box 307, Petoskey, Mich. 49770. James M. Griswold, District Sales Manager. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 48958 (Sub-No. 143TA), filed October 28, 1977. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, Colo. 80216. Applicant's representative: Lee E. Lucero (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 25807, Albuquerque, N. Mex. 87125. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 65941 (Sub-No. 44TA), filed November 2, 1977. Applicant: TOWER LINES, INC., 3d and Warwood Avenue, P.O. Box 6010, 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: *Insulation 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 219, and West Virginia, restricted to shipments destined to the warehouse facilities, job sites and customers of Fepco Insulation, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fepco 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 TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: William E. Christensen (same address as applicant). 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 Conveyor Division, Hoover Ball and Bearing Co., 4343 Easton Road, St. Joseph, Mo. 64503. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 99798 (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: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Suite 600, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal*, in bags, 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): Nubbin 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 M. Regan, P.O. Box 1123, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude cottonseed oil*, in bulk, in tank vehicles, from Pine Bluff and Helena, Ark., to Amory, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Amory Cotton Oil Co., P.O. Box 30, Amory Miss. 38821. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 108119 (Sub-No. 72TA), filed November 9, 1977. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, Minn. 55164. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. 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 at or near Blountstown, Fla., to points in the United States that are in 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: CHESTER 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 DeWeese, Wilson Motel, Gardiner, Mount. 59030. (2) Tom Gilbert, Tom's Welding, Clyde Park, Mont. 59018. (3) Ray Stoll, Park Firestone, 1305 East Park Street, Livingston, Mont. 59047. (4) Nordie Lenneman, Nordie's Store, Wilsall, Mont. 59086. (5) Patricia Hoppe, Montana State Liquor Store, Gardiner, Mont. 59030. (6) John C. Arthun, Jr., Wilsall Hardware, Wilsall, Mont. 59086. (7) L. Doney Manager, Petrolane Gas Co., Gardiner, Mont. 59030. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 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: Eugene L. 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 Montana 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. 59406. 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. 48748. Applicant's representative: William B. 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, Wis., under a continuing contract or contracts, with Gold Bond Building Products Division of National Gypsum Co., for 180 days. Applicant has also

filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gold Bond Building Products Division of National Gypsum Co., Buaffalo, N.Y. 14202. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 115056 (Sub-No. 19TA), filed November 8, 1977. Applicant: LANE TRUCK LINES, INC., 120 Newby 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: *Wooden boxes, box shooks, and wooden pallets*, from points in Stokes County, N.C., to points in Connecticut, for 180 days. Supporting shipper(s): Fortis Corp., P.O. Box 485, King, N.C. 27021. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 115496 (Sub-No. 71TA), filed November 8, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Highway 23 South, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plantsite of Mac Millan Bloedel Building Materials, Division of Mac Millan Bloedel, Inc., at Jacksonville, Fla., to points in Alabama, Georgia, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper(s): Mac Millan Bloedel Building Materials, Division of Mac Millan Bloedel, Inc., suite 200, 6540 Powers Ferry Road, NW., Atlanta, Ga. 30339. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, NW., room 300, Atlanta, Ga. 30309.

No. MC 115904 (Sub-No. 84TA), filed November 4, 1977. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, from Hamlin and San Antonio, Tex. and Albuquerque, N. Mex., to points in Idaho, for 180 days. Applicant does not intend to tack or interline authority with other carriers. 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, 550 W. Fort Street, Box 07, Boise, Idaho 83724.

No. MC 115904 (Sub-No. 85TA), filed November 8, 1977. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. 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): PPG Industries, Inc., No. 1 Gateway Center, Pittsburgh, Pa. 15222. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort Street, Box 07, Boise, Idaho 83724.

No. MC 119315 (Sub-No. 22TA), filed November 2, 1977. Applicant: FREIGHTWAY CORP., 131 Matzinger Road, Toledo, Ohio 43612. 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 plantsite 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, Ill. 60521. Send protests to: Keith D. Warner, 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 26, 1977. Applicant: MONKEM CO., INC., P.O. Box 1196, West 20th Street Road, Joplin, Mo. 64801. Applicant's representative: Lawrence F. Kleoppel, P.O. Box 1196, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from East St. Louis, Ill., and its commercial zone as defined by the Commission, to points in the States of Indiana, Kentucky, Michigan, Ohio, Colorado, and Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Conagra, Inc., 200 Kiewit Plaza, Omaha, Nebr. 68131. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119789 (Sub-No. 383TA), filed November 1, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC. P.O. Box 6188, Dallas, Tex. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising material*, from San Antonio, Tex., to Alabama, Florida, Georgia, Louisiana, North Carolina, and South Carolina, for 180 days.

NOTE.—Carrier lists some 95 representative destination cities in the above listed states on an appendix to application.

Supporting shipper(s): Pearl Brewing Co., 312 Pearl Parkway, P.O. Box 1661, San Antonio, Tex. 78296. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 123233 (Sub-No. 78TA), filed November 3, 1977. Applicant: PROVOST CARTAGE, INC., 7887 Grenache Street, Ville D'Anjou, Quebec, Canada. Applicant's representative: J. P. 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 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 Sucronel Ltd., 4026 Notre-Dame Street East, Montreal, Quebec, Canada. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 124003 (Sub-No. 3TA), filed November 8, 1977. Applicant: DAYS MOVING & STORAGE, INC., P.O. Box 754, County Road, Elkhart, Ind. 46514. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials,*

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, 343 West Wayne Street, Suite 13, Fort Wayne, Ind. 46802.

No. MC 124174 (Sub-No. 111TA), filed October 26, 1977. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Marshall D. Becker, Stern & Becker, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building construction, manufacturing, divider, floor, roof or wall panels and sections, and related accessories and materials used in the erection or installation thereof* (except commodities in bulk); and (2) *equipment, materials, and supplies used in the manufacture thereof*, from the plantsite and warehouse facilities of Kalwall Corp., Manchester, N.H., to Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin for 180 days. Supporting shipper(s): Kalwall Corp., Daniel McMillan, Traffic Manager, 1111 Candia Road, Manchester, N.H. 03103. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 124947 (Sub-No. 84TA), filed November 4, 1977. Applicant: MACHINERY TRANSPORTS, INC., P.O. Box 271049, Dallas, Tex. 74227. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chicago, Ill., and its commercial zone to Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bethlehem Steel Co., 3800 Prudential Building, Chicago, Ill. 60601. Send protests to: Joe Green, District Supervisor, room 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: Thomas J. Burke, Jr., Jones, Meiklejohn, Kehl & Lyons, 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesive materials* (except in bulk), from Barberton, Ohio, to points on the United States-Canada International Boundary line at or near Noyes, Minn., Portal, N. Dak., and Sweetgrass, Mont., restricted to traffic destined to points in the Province of Alberta, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jim Williamson, Office Manager-Purchasing Agent, Plicoflex Division of Proline, Pipe Equipment, Ltd., 7419 30th Street SE., Calgary, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 1st Avenue North, Billings, Mont. 59101.

No. MC 133119 (Sub-No. 125TA), filed November 1, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Section A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsites and or warehouse facilities utilized by Iowa Beef Processors, Inc., located at or near Denison and Fort Dodge, Iowa; Luverne, Minn.; Dakota City and West Point, Nebr., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processoris, Inc., H. L. Dennison, Senior Transportation Technician, Dakota City, Nebr. 68731. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 134755 (Sub-No. 121TA), filed October 27, 1977. Applicant: CHARTER EXPRESS, INC., P.O. Box. 3772, 1959 East Turner Street, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. 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., at or near Carrollton, Mason, Marshall, and Moberly, Mo., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hamphire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above-named origins and destined to the above-named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): 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 135213 (Sub-No. 10TA), filed November 2, 1977. Applicant: JOE GOOD, d.b.a GOOD TRANSPORTATION, 830 Shoshone Avenue, P.O. Box 335, Lovell, Wyo. 82431. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum board paper*, from Mayes County, Okla., to Sevier County, Utah, under a continuing contract, or contracts, with Georgia-Pacific Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., 900 Southwest Fifth Avenue, Portland, Oreg. 97204. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Courthouse, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 138299 (Sub-No. 10TA), filed November 10, 1977. Applicant: TRAILS TRUCKING, INC., 1983 Old Oakland Highway, San Jose, Calif. 95131. Applicant's representative: William J. Monheim, 13710 East Whittier Boulevard, Suite 203, P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, from Compton, Calif., to points in Arizona, under a continuing contract, or contracts, with Owens-Corning Fiberglas Corp., for 180 days. Supporting shipper(s): Owens-Corning Fiberglas Corp., Fiberglass Tower, Toledo, Ohio 43659. Send protests to: Michael M. Butler, District Supervisor, 211 Main Street, Suite 500, San Francisco, Calif. 94105.

No. MC 138308 (Sub-No. 35TA), filed October 31, 1977. Applicant: KLM, INC., P.O. Box 162, Railroad Avenue,

Center, Tex. 79535. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department and variety stores (except commodities in bulk), from points in Connecticut, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Mississippi, New Jersey, Oklahoma, Rhode Island, Tennessee, Virginia, West Virginia, and Wisconsin, to the facilities of W. E. Walker Stores, Inc., at or near Columbia, Miss., and Diboll, Tex., restricted to shipments originating in the above States and destined to the above specified points, for 180 days. Supporting shipper(s): W. E. Walker Stores, Inc., P.O. Box 9407, Jackson, Miss. 39206. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 139495 (Sub-No. 279TA), filed November 2, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Sullivan , Dubin & Kingsley, 1320 Fenwick Lane, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric motors, gear motors, generators, controllers, power transmission equipment, gear or speed increasing or reducing machinery, and parts and accessories thereof* (except such commodities which because of their size or weight require the use of special equipment) from the facilities of Reliance Electric located at or near Lawrenceburg, Ky., to points in Arizona, California, Colorado, Connecticut, Georgia, Massachusetts, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Vermont, and Washington. Restricted to traffic originating at the facilities of Reliance Electric Co., at Lawrenceburg, Ky., and destined to the above-named destination states. Supporting shipper: Reliance Electric Co., Highway 127 North, Lawrenceburg, Ky. 40342. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101A Litwin Building, 110 North Market, Wichita, Kans. 67202.

No. MC 140581 (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: *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): Emess Coach Builders, Inc., 11442 North 66th Street, Largo, Fla. 33543. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 141575 (Sub-No. 7TA), filed November 1, 1977. Applicant: TFS, INC., East Highway 136, Oxford, Nebr. 68967. Applicant's representative: Gailyn 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., from San Francisco, Calif., to Salina, Kans., under a continuing contract, or contracts, with 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. 68967. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 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., 264 Boulder Industrial Drive, Bridgeton, Mo. 63044. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

PASSENGER APPLICATION

No. MC 141369 (Sub-No. 1TA), filed November 3, 1977. Applicant: V.I.P. LIMOUSINE, INC., 76 Arch Street, Greenwich, Conn. 06830. Applicant's representative: Gunter von Conrad, Barnes, Richardson & Colburn, 1819 H Street NW., Washington, D.C. 20006. 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 one 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]

[Notice No. 159TA]

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'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 21866 (Sub-No. 92TA), filed November 21, 1977. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Ave., Boyertown, Pa. 19152. 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 90 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 3238, Philadelphia, Pa. 19106.

No. MC 26396 (Sub-No. 161TA), filed November 11, 1977. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, 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: *Plastic pipe and conduit, and fittings, valves, and accessories therefor*, 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 Pipe Corp., 100 Industrial Drive, P.O. Box 325, Samson, Ala. 36477; and James B. Holland, President, Slocumb Plastic Pipe and Products, Inc., 302 Esto Highway, P.O. Drawer J, Slocumb, Ala. 36375. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 47171 (Sub-No. 100TA), filed November 21, 1977. Applicant: COOPER MOTOR LINES., P.O. BOX 4259, Greenville, S.C. 29608. Applicant's representative: Harris G. Andrews, P.O. Box 4259, Greenville, S.C. 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dental and hospital supplies*, from Hancock, N.Y., to Atlanta, Ga., for 180 days. Supporting shipper: Becton, Dickinson, and Co., Rutherford, N.J. 07070. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 61231 (Sub-No. 108TA), filed November 14, 1977. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines, Iowa 50317. 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: *Roofing, building, and insulating materials* (except iron and steel articles and commodities in bulk), from the plantsite of CertainTeed Corp., at Kansas City, Mo., to points in Indiana and Kentucky, for 180 days. Supporting shipper: CertainTeed Corp., P.O. Box 860, Valley Forge, Pa. 19482. 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. Lowell, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related advertising materials* (1) from New Orleans, La., and Louisville, Ky., to Memphis, Tenn.; and (2) from Ft. Wayne, Ind., to Paducah, Ky., and points in the commercial zones of the above. Supporting shippers: Premium Brands, Inc., 2665 Summer, P.O. Box 12141, Memphis, Tenn. 38112; and Meyer Distributing Company, Inc., 123 North 10th Street, Paducah, Ky. 42001. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suit 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 74681 (Sub-No. 8TA), filed November 11, 1977. Applicant: STEVENS VAN LINES, INC., 121 South Niagara Street, Saginaw, Mich. 48602. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden wardrobe cabinets*, uncrated for military use, from Omini Products Division, 12th Street SW., Vernon, Ala., to Patrick Air Force Base, Fla., and Eglin Air Force Base, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: OMNI Products Division, Georgetown, Ky. 40324. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 78276 (Sub-No. 10TA) (partial correction), filed September 9, 1977, published in the FEDERAL REGISTER issue of October 3, 1977, and republished as corrected this issue. Applicant: MAZZEO & SONS EXPRESS, 311 South River Street, Hackensack, N.J. 07601. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. This purpose of this partial republication is to indicate the District Supervisor, and to show where to send protests to: Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102. The rest of the publication remains the same.

No. MC 89723 (Sub-No. 70TA) (correction), filed October 25, 1977, published in the FEDERAL REGISTER issue of November 18, 1977, and republished as corrected this issue. Applicant: MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, room 912, St. Louis, Mo. 63103. Applicant's representative: Robert S. Davis (same address as applicant). 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 Certificate 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, thence over Texas Highway 16 to plantsite access road; thence via plantsite access road to San Miguel Power Plant site; and (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; and return over the same routes, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Jervis B. Webb Co., P.O. Box 427, Pleasanton, Tex. 78064; and Babcock & Wilcox Co., 20 South Van Buren

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 11, 1977. Applicant: MALLINGER 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 Hampton, Iowa, to Dallas, Tex., for 180 days. Applicant has also filed an undelying 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. 74023. 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 plantsite and/or storage facilities of Peter Paul, Inc., at or near Frankfort, 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 Court House Building, 215 Northwest 3d Oklahoma City, Okla. 73102.

No. MC 118159 (Sub-No. 229TA), 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, Kans., 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 Court House Building, 215 Northwest 3d, Oklahoma City, Okla. 73102.

No. MC 119789 (Sub-No. 389TA), 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: *Malt 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 Distributing 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. 53246. 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: *Plastic materials*, dry, in bulk, in tank vehicles, from Illiopolis, 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, Bureau of Operations, U.S. 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 Jackson Street, P.O. Box 166, Eagle Grove, Iowa 50533. 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: *Fire retardant materials*, except liquids in bulk, from Mason City, Iowa, to points in Illinois, Indiana, 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., 5200 Spaker Road, Kansas City, Kans. 64106. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 125162 (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 plantsite 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 Meade 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 12th Street, Dubuque, Iowa 52001. 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: *Insulation*, in bags, from the plantsite 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 XPRESS, 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, Nebr. 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 Matteson, 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(s): Gold Bond Building Products, Division of National Gypsum Co., 325 Delaware Avenue, Buffalo, N.Y. 14202. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Fed-

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. 282TA), filed November 14, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 East 8th Street, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick 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 Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, 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, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 139713 (Sub-No. 6TA), filed November 14, 1977. Applicant: DONALD M. NASS, d.b.a. DON NASS TRUCKING, 210 Front Street, Clinton, Wis. 53525. Applicant's representative: Richard A. Westley, 4506 Regent Street, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from La Crosse, Wis., to the facilities of Beloit Beverage Co., at or near South Beloit, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Beloit Beverage Co., Anthony D. Morello, Secretary, 408 Colby Street, Beloit, Wis. 53511. Send protests to: District Supervisor, Ronald A. Morken, Interstate Commerce Commission, 139 West Wilson Street, Madison, Wis. 53703.

No. MC 139760 (Sub-No. 5TA), filed November 14, 1977. Applicant: WILLIAM ULBRICH TRUCKING CO., INC., 128 Vreeland Avenue, Leonie, N.J. 07605. Applicant's representative: William Ulbrich (same address as applicant). 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 Neville Island, Pa., under a continuing contract or contracts with Vulcan Materials 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. 35223. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 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, Brockton, Mass. 02401. Applicant'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. Supporting shipper: Brisco Baling Corp., doing business as Brockton Iron & Steel, 45 Freight Street, Brockton, Mass. 02402. Send protests to: District Supervisor, John B. Thomas, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, Mass. 02114.

No. MC 143933TA, filed November 1, 1977. Applicant: ABCO MOVING & STORAGE, INC., 1700 Atlantic Avenue, Chesapeake, Va. 23324. Applicant's representative: Blair P. Wakefield, First & Merchants Bank Building, suite 1001, Norfolk, Va. 23510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household 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, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, Va., Camden, Currituck, Dare, Gates and Pasquotank Counties, N.C., restricted to (1) traffic having a prior or subsequent movement in containers, beyond points authorized and (2) pickup and delivery service in connection with packing, crating, and containerization 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 58th Street, New York, N.Y. 10022; Von Der Ahe International, 600 Rudder Avenue, Fenton, Mo. 63026; and Department of Defense, Dellon E. Coker, Chief Regulatory Law Office, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, room 10-502 Federal Building., 400 North 8th Street, Richmond, Va. 23240.

No. MC 143949 TA, filed November 8, 1977. Applicant: JOHN GALT LINE, INC., 96—Lucas Ranch Road, Cucamonga, Calif. 91730. Applicant's representative: Lucy Kennard Bell, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Bldg., 707 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mini motor homes and recreational vehicles*, in truckaway and driveaway service, from the plantsites and facilities of Dolphin Camper Co. and Roust-a-bout of California, Inc., located in Los Angeles and San Bernadino Counties, Calif., to points in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ginger Koelman, Dolphin Camper Co., 9790 Glenoaks Boulevard, Sun Valley, Calif. 91352. Roust-a-bout of California, Inc., 1612 S. Cucamonga Avenue, Ontario, Calif. 91761. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143954 TA, filed November 7, 1977. Applicant: CHARLES RAILA, d.b.a. K-R CONTRACTORS, 1795 Firwood, Orlando, Fla. 32808. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aerials or antennae*, other than for television receiving sets, directional 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 contracts, 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 Pleasantdale Road, Atlanta, Ga. 30340. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 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. 85539. Applicant's representative: Earl H. Carroll, 363 North First Avenue, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper concentrates*, in bulk, in dump or hopper type trailers, from Fierro, N. Mex. (approximately 20 miles northeast of Silver City, N. Mex.), to Inspiration, Ariz., for 180 days. Supporting shipper: Inspiration Consolidated Copper Co., In-

spiration, Ariz. 85537. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Bldg., 230 North First Avenue, Phoenix, Ariz. 85025.

No. MC 143960TA, 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. 67526. 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. 61109. Applicant's representative: Dennis P. Drda (same address as applicant). Authority sought to operate as a *contract 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. Roscoe, 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, Reddell, La. 70580. Applicant's representative: Karl Bertrand (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boardroad 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.

[FR Doc. 77-35562 Filed 12-13-77; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

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CIVIL AERONAUTICS BOARD.

ADDITION OF ITEM TO THE DECEMBER 12, 1977 MEETING AGENDA

REVISED AGENDA

TIME AND DATE: 2 p.m., December 12, 1977.

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

SUBJECT: 1. Docket 23080-2, Priority and Nonpriority Domestic Mail Rates Investigation (OGC).

(Addition.)—2. *Improved Authority to Wichita Case,* Docket 28848; *Additional Dallas/Fort Worth-Kansas City Nonstop Service Case,* Docket 28778; *Phoenix-Des Moines/Milwaukee Route Proceeding,* Docket 28800; *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 28308 (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]

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[M-87; 12/8/77]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 12:30 p.m., December 15, 1977.

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

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 31423, Marco Island Airways' request to operate large aircraft nonstop between Miami and Fort Myers (Memo No. 4865-E, BOR).

3. Docket 31412, Pan American's application for fill-up authority between Seattle and San Francisco (Memo No. 7629, BOR).

4. Dockets 30794, 30878, 31211, application of Frontier Airlines for removal of one-stop restrictions in the Tulsa-Little Rock and Tulsa-Memphis markets; application of Allegheny Airlines for Tulsa-Memphis nonstop authority; application of Delta Air Lines for Tulsa-Little Rock and Tulsa-Memphis nonstop authority (Memo No. 7259-A, BOR, OGC).

5. Docket 29731, American Airlies, 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 Kamuela Case* (BLJ, OGC).

7. Exemptions from Act for 418 certificated carriers (BOR, OGC, OEA, BFR, BOE).

8. Docket 25476, agreement to reorganize Airline Tariff Publishers, Inc. (for information memo dated December 1, 1977).

9. Docket 31520, expedited rulemaking to liberalize charter rules on an interim basis, instituted by notice of proposed rulemaking SPDR-61; (OGC).

10. Docket 20826 et al., *Alaska Service Investigation (Bush Routes Phase)* (Memo No. 7302-B, OGC).

11. Dockets 27844 and 27924, *Caribbean International Airways, Ltd.,* and *Laker Airways, Ltd.,* foreign air carrier permits (OGC, BIA).

12. Docket 28495, review of decision of the Director, BOE, dismissing the third-party complaint in *United Air Lines* v. *Pacific Southwest Airlines* (Memo No. 7413, 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. 26886, IATA agreement proposing a general fuel-related increase in United States-South America long-haul fares (Memo No. 7633, BFR, BIA).

16. Docket 27363, Allegheny petition for reconsideration of Order 76-9-109 (Memo No. 5117-B, OGC, BFR).

17. Dockets 31589 and 31603, rules relating to the acceptance and carriage of live animals in domestic air freight transportation proposed by participating airlines (Memo No. 7632, BFR).

18. Super coach fares proposed by TWA in the Denver-New York and Baltimore-Chicago markets (BFR).

19. CAB War Air Service Program (WASP) Resource Report—CY 1978 (BFR).

20. Docket 31763, application of Travellers Air Services, Inc., and Trans World Airlines, Inc., for an emergency exemption and *United States Tour Operators Association, et al.* v. *Trans World Airlines, Inc. et al.,* U.S. District Court for the Southern District of New York, Case No. 77 Civ. 911 (C.E.S.).

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 disclosed that they have been engaged in negotiations to settle the matters which resulted in the Board's filing a motion to intervene and proposed intervenor's complaint against them in the U.S. District Court for the Southern District of New York (77 Civ. 911). They attached a copy of what they represent to be the most recent settlement proposal and discussed the proposed settlement extensively in their application.

This meeting will concern the way in which the Board may act on the exemption application in Docket 31763, as well as the actions the Board will take in pursuing its motion to intervene and proposed intervenor's complaint in the case of *USTOA, et al.* v. *TWA, et al.*, 77 Civ. 911 (S.D.N.Y.). The discussion will concern possible settlement approaches. Premature disclosure of the Board's current bargaining posture would be likely to significantly frustrate implementation of a settlement by making subsequent flexibility difficult if further negotiations are necessary.

Discussion at this meeting will also disclose investigatory records and information compiled for law enforcement purposes, and the production of such records or information would interfere with enforcement proceedings. For example, the applicants and the objector in Docket 31763 dispute whether one of the applicants is a U.S. citizen or a foreign citizen. The Board's staff has obtained investigatory records and information concerning this issue, which will likely be discussed at this meeting. The results of such disclosure would be interference with the Board's enforcement proceedings in the *USTOA* court case, by publicizing the evidence which the Board may use later in that case.

The meeting will also specifically concern the Board's participation in a civil action, the *USTOA* case referred to above. The applicants in Docket 31763 say that their application is tied to events taking place in that civil action, and the discussion at this meeting will concern the Board's actions in response to those events and the Board's participation therein. To disclose the Board's strategic and tactical posture in this lawsuit would harm its further efforts in the case.

Accordingly, the Board finds that public observation of this meeting would be likely to result in the disclosure of information, the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, would disclose investigatory records and information compiled for law enforcement purposes, the production of which would interfere with enforcement proceedings, and will specifically concern the Board's participation in a civil action, within the meaning of the exemptions provided under 5 U.S.C. § 552b (c)(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 Minetti
Member Lee R. West
Member Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

BOARD MEMBERS:

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Lee R. West

ASSISTANT TO BOARD MEMBERS:

Mr. Mike Roach
Mr. Elias C. Rodriquez
Mr. Ford Cole
Mr. James Casey
Mr. John Golden
Ms. Barbara Clark.

OFFICE OF THE MANAGING DIRECTOR:

Mr. Dennis Rapp
Mr. John C. Hancock

BUREAU OF OPERATING RIGHTS:

Mr. James Saltsman
Mr. John Coleman
Ms. Patricia Szrom
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. 552b (c)(9)(B), (c)(7)(A), and (c)(10).

Dated: December 8, 1977.

PHILIP T. BAKES, Jr.,
General Counsel.

[S-2046-77 Filed 12-12-77; 8:45 am]

[6740-02]

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Pub. December 9, 1977, 42 FR 62247).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: December 14, 1977, 10:00 a.m.

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. CI77-571 and RI77-122, Freeport 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-8176, Southern California Edison Co.

KENNETH F. PLUMB,
Secretary.

[S-2049-77 Filed 12-12-77; 10:45 am]

[6720-01]

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42. No. 234, Page 61704, December 6, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 A.M., December 9, 1977.

PLACE: 320 First Street NW., room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

CHANGES IN THE MEETING: The following item has been withdrawn from the agenda for the open meeting: Service Corporation Activity Application—First Federal Savings and Loan Association of Chicago, Chicago, Ill.

No. 109, December 9, 1977.

[S-2050-77 Filed 12-12-77; 10:45 am]

[6720-01]

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 10 a.m., December 15, 1977.

PLACE: 320 First Street, room 630, Washington, D.C.

STATUS: Closed Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED: Consideration of Proposed 1978 Budget of the Office of Neighborhood Reinvestment.

Consideration of FSLIC Assessments for fiscal year 1978.

ANNOUNCEMENT IS BEING MADE AT THE EARLIEST PRACTICABLE TIME.

No. 108, December 9, 1977.

[S-2051-77 Filed 12-12-77; 10:45 am]

[6720-01]

6

FEDERAL HOME LOAN BANK BOARD.

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, 202-376-3012.

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.
Satellite Facility Application, Charleston Federal Savings and Loan Association, Charleston, W. Va.
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.

[S-2052-77 Filed 12-12-77; 10:45 am]

[6210-01]

7

FEDERA L RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, December 16, 1977. The closed portion of the meeting will commence at the conclusion of the open discussion.

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

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.

2. Proposed interpretation of section 24A of the Federal Reserve Act regarding capitalization of leased property pursuant to the Financial Accounting Standards Board Statement of Financial Accounting Standard No. 13.

3. Proposed amendments to the Transfer Agent registration form (TA-1) and extension of time for filing the amended form.

Discussion Agenda: 1. Proposed revisions to the Federal Reserve System's Reports of Condition and Income. (Proposed earlier for public comment: docket No. R-0123).

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.

[S-2047-77 Filed 12-12-77; 8:45 am]

[6210-01]

8

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 61704, December 6, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, December 12, 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 interprêtation of Regulation A (Extensions of Credit by Federal Reserve Banks) to provide that a bankers' 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.

[S-2048-77 Filed 12-12-77; 8:45 am]

[7035-01]

9

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.

[S-2058-77 Filed 12-12-77; 3:54 pm]

[4910-58]

10

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-

dependence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Special Investigation Report and Recommendations:* An Overview of a Bulk Gasoline Delivery Fire and Explosion.
2. *Highway Accident Report:* Long transportation Co., Tractor-Semitrailer Collision with Multiple Vehicles, Followed by Fire, Valley View, Ohio, August 20, 1976.
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-2057-77 Filed 12-12-77; 3:48 pm]

[7590-01]

11

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, December 8, 1977.

P LACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open (Additional Items).

MATTERS TO BE CONSIDERED: 5 p.m. (Approx.)—Affirmation of: Approval 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]

12

RENEGOTIATION BOARD.

DATE AND TIME: Friday, December 16, 1977; 8:30 a.m.

PLACE: FEA Auditorium, room 2105, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Open to public observation.

MATTER TO BE CONSIDERED: The Role of the Renegotiation Board in 1978.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: December 9, 1977.

GOODWIN CHASE,
Chairman.

[S-2056-77 Filed 12-12-77; 12:26 pm]

[8010-01]

13

SECURITIES AND EXCHANGE COMMISSION.

DATE AND TIME: December 7, 1977, 10 a.m.

PLACE: Room 825, 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]

14

UNITED STATES PAROLE COMMISSION.

NATIONAL COMMISSIONERS (THE COMMISSIONERS PRESENTLY MAINTAINING OFFICES AT WASHINGTON, D.C. HEADQUARTERS)

TIME AND DATE: Thursday, December 22. 1977; 9:30 a.m.

PLACE: Room 338, Federal Home Loan Bank Board Building, 320 1st Street NW., Washington, D.C. 20537.

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]

15

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 9 a.m., Wednesday, December 21, 1977.

PLACE: Commissioners' Meeting Room, room 5H09 (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]

16

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. Luice 2) (Approx. 1 hr.) (Public Meeting).
1:30 p.m.—Briefing on Status of Licensing Reform Legislation (Approx. 1 hr.) (Closed-Exemption 9).

FRIDAY, DECEMBER 16

1:30 p.m.—1. Briefing by Varl 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

WEDNESDAY, DECEMBER 14, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

PROPOSED FLOOD ELEVATION DETERMINATIONS

[4210–01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI–3720]

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 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 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, 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 Town of Hanceville, Ala., 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mud Creek	Louisville and Nashville R.R.	526
	U.S. Highway 31	532
	Alabama Highway 91	534
North Fork of Mud Creek.	Commercial St. (upstream side).	535
	Blountsville Rd. (upstream side).	540

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–35336 Filed 12–13–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3721]

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.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Jacksonville, Pulaski County, Ark., 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 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).

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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bayou Meto Main Stem.	Upstream of Arkansas Highway 161.	246
	Jacksonville cutoff road from Arkansas Highway 161.	253
Bayou Meto:		
Tributary No. 1	Upstream of South Redmond Rd.	250
	Gregory Rd.	283
Tributary No. 1-A.	Upstream of Marshall Rd.	258
Jack Bayou Main Stem.	Eastern Pulaski County limits.	256
Jack Bayou:		
Tributary No. 1	Eastern Pulaski County limits.	263
	Upstream of Arkansas Highway 161.	273
Tributary No. 1-A.	do.	275
Tributary No. 2	Upstream of U.S. Highway 67–167.	262
Tributary No. 2-A.	Confluence with Jack Bayou tributary No. 2.	258
Tributary No. 2-B.	Upstream of eastern drive of Pine Meadows Trailer Park.	288

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 23, 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–35337 Filed 13–9–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3722]

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 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, Haywood, Calif. Send comments to: Mr. Paul E. Lanferman, Engineer Manager, Alameda County Flood Control and Water 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: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Alameda County, Calif., 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 contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Arroyo Mocho	Corporate limits downstream of Arroyo La Postias.	341
	Arroyo Rd	503
	Wente St	551
Arroyo Las Positas	El Charro Rd	357
	Cottonwood Creek	374
	Airway Blvd	381
	Interstate Highway 580 downstream of Cayetano Creek.	405
	North Livermore Ave.	448
	Interstate Highway 580 upstream of North Livermore Ave.	477
	Vasco Rd	527
Arroyo Seco	Vasco Rd	595
	Greenville Rd	695
Las Positas Relocation.	Greenville Rd	620
Arroyo Valle	Vineyard Ave	365
	Isabel Ave	415
	East Vallecitos Rd	446
	Arroyo Rd	540
Line J–1	Dublin Blvd	530
	Amador Valley Blvd	535
Chabot Canal	Southern Pacific RR	333
San Lorenzo Creek	Don Castro Dam	238
	Confluence with Palomares Creek.	313
Line G	Grove Way	133
	Castro Valley Blvd	161
	San Miguel Ave	191
Line J	Pine St	163
	Catalina Dr	186
	Berdina Rd	177
Bockman Canal and Line N.	Pile Trestle Bridge	6
	Southern Pacific RR	8
Alameda Creek	Sunol Dam	223
	Interstate 680	245
Tassajara Creek	Santa Rita Rd	348
Cayetano Creek	Hartman Rd	522
Collier Creek	Interstate 580	416
	Collier Canyon Rd	432
Altamont Creek	Laughlin Rd	554
	North Front Rd	579
Arroyo De La Laguna.	Paloma Rd	242
	Southern Pacific RR	267
	Verona Rd	286
	Castlewood Dr	301
	Bernal Ave	316
Palomares	Confluence with San Lorenzo Creek.	313

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–35338 Filed 12–13–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3723]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF NATIONAL CITY, SAN DIEGO 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 the City of National City, San Diego 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 City Hall, 1243 National Avenue, National City, Calif. Send comments to: Mayor Kirle Morgan, City Hall, 1243 National Avenue, National City, Calif. 92050.

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 National City, Calif., 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 main 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sweetwater River	San Diego and Arizona Eastern RR.	11
	Interstate 5 Freeway	15
	National Ave	18
	Highland Ave	21
	Interstate 805	35
Paradise Creek	San Diego and Arizona Eastern RR.	12
	"D" Ave	14
	Highland Ave	30
	Sheryl Lane	63
	Harbison Ave	114
	8th Street	134
	Honeysuckle Lane	166

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35339 Filed 12-13-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3724]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF NORTHGLENN, ADAMS COUNTY, COLO.

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 Northglenn, Adams County, Colo. 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, 10701 Melody Drive, Suite 313, Northglenn, Colo. Send comments to: Mayor Al Thomas, City Hall, 10701 Melody Drive, Suite 313, Northglenn, Colo. 80234.

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 Northglenn, Colo., 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Grange Hall Creek	Interstate 25	5,348
	Grant Dr	5,319
	Washington St	5,283
	Larson St	5,279
	Marion St	5,254
	Irma Drive (upstream side).	5,231
	Dirt Rd. (upstream side) 700 ft downstream of confluence of South fork.	5,223
North Fork Grange Hall Creek.	Leroy Dr	5,240
	Union Pacific RR. (upstream).	5,230
	Union Pacific RR. (downstream).	5,209
South Fork Grange Hall Creek.	Tuck Lateral Station 12640 above Grange Hall Creek.	5,400
	Melody Dr	5,392
	Interstate 25 (upstream side).	5,368
	104th Ave	5,238
Grange Hall Creek tributary.	Union Pacific RR.	5,255
	York St	5,241

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35340 Filed 12-13-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3725]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR TOWN OF WINDSOR, HARTFORD COUNTY, CONN.

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 Windsor, Hartford County, Conn. 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 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.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Windsor, Hartford County, Conn., 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 be used to calculate the appropriate flood insurance premium rates for new build-

ings 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:

Source of flooding	Location	Elevation in feet, metropolitan district datum
Connecticut River	Approximately 100 ft upstream of John Bissell Memorial Bridge.	33
	Approximately 100 ft upstream of confluence of Hayden Station Brook.	35
Farmington River	Just downstream of Palisado Ave.	34
	Just upstream of confluence of Phelps Brook.	35
	Approximately 200 ft upstream of Poquonock Avenue Bridge.	43
Phelps Brook	Approximately 100 ft downstream of confluence of tributary A.	35
	Approximately 100 ft upstream of Poquonock Ave.	71
Hayden Station Brook.	Just upstream of Palisado Ave.	35
	Approximately 100 ft upstream of Hayden Station Rd.	65
Creamery Brook	Approximately 100 ft upstream of Elm Court.	51
	Approximately 100 ft upstream of Preston St.	56
Tributary C	Approximately 100 ft upstream of Plymouth St.	67
Tributary D	Approximately 100 ft upstream of Palisado Ave.	35
Mill Brook	Approximately 100 ft upstream of Palisado Ave.	34
	Just upstream of East St.	37
	Just upstream of Bloomfield Ave.	104
Meadow Brook	Approximately 100 ft upstream of White Rock Dr.	58
	Approximately 100 ft upstream of Tamarack Dr.	78
Deckers Brook	Approximately 100 ft upstream of East Barber Street Bridge.	49
	Just upstream of Drake St.	52
	Approximately 100 ft upstream of Windsor Avenue Bridge.	55

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35341 Filed 12-13-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-13726]

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.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Fort Scott, Bourbon County, Kans., 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Marmaton River	Just downstream of National Ave.	801
	4th Street (extended)	803
	Confluence of Mill Creek.	800
East Creek	Just downstream of Walnut St.	805
	Just upstream of Oak St.	824
Buck Run	Just upstream of Third Street.	803
	Confluence of Buck Run tributary.	817
	Approximately 100 ft downstream of Twentieth Street.	874
Buck Run East Fork.	Approximately 200 ft upsteam of Clark St.	857
Buck Run tributary.	Just upstream of Wilson St.	841

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35342 Filed 12-13-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3727]

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,

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 Humboldt, Allen County, Kans., 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neosho River	Just upstream of Bridge St.	935
	Confluence of Cannon Creek.	935
Cannon Creek	Just upstream of 8th Street.	954
Tributary to Coal Creek.	Just upstream of Pine St.	947
	Just upstream of Central St.	960

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35343 Filed 12-13-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3728]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR VILLAGE OF CLAYTON, COUNTY, 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 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 City Hall, Clayton, La. Send comments to: Mayor Robert L. Wells, P.O. Box 123, Clayton, La. 71326.

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: Proposed base (100-year) flood elevations are listed below for selected locations in the Village of Clayton, Concordia Parish, Louisiana, 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 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).

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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tensas River	Just upstream of Louisiana Highway 15.	63
Ditch No. 1	Approximately 100 ft upstream of Louisiana Highway 900.	59
	Just upstream of U.S. Highway 65.	60
	Just downstream of Martlett Lane.	60
Ditch No. 2	Just upstream of U.S. Highway 65.	58
	Just downstream of McAdams St.	58

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 23, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of atuhority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35344 Filed 12-13-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3729]

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 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black Bayou	Approximately 100 ft upstream of Claiborne Rd. (U.S. Highway 80).	91
	Approximately 100 ft upstream of Thomas Rd.	76
Levee Ditch	Just downstream of Linderman Ave.	73
Golf Course Creek.	Just downstream of Slack St.	75
Highland School Branch.	Approximately 100 ft upstream of Claiborne Rd. (U.S. Highway 80).	89
Gravel Pit Branch	Just downstream of U.S. Highway I-20.	83
Tupawek Bayou	Just upstream of Arkansas Rd.	86
Tupawek Bayou (Backwater effects from Ouachita River).	Just downstream of Louisiana Highway 143.	85
North Tupawek Bayou.	Just upstream of Camp Kiroli Rd.	85
Ouachita River	Just upstream of U.S. Highway I-20.	84

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35345 Filed 12-13-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3730]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR TOWN OF WINNSBORO, FRANKLIN 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 Town of Winnsboro, Franklin 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 City Hall, Winnsboro, La. Send comments to: Mayor W. E. Marioneaux, P.O. Box 270, Winnsboro, La. 71295.

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 Town of Winnsboro, Franklin Parish, La., 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Turkey Creek	Just downstream of Louisiana Highway 15.	65
	Downstream of Louisiana Highways 4 and 17.	67
Ash Slough	Just upstream of Eighth Street.	69
	Just downstream of Harvard St.	69
	David St. (extended)	70

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35346 Filed 12-13-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3731]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR TOWNSHIP OF ERIE, MONROE COUNTY, MICH.

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 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 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 Township Hall, 2060 Manhattan Street, Erie, Mich. Send comments to: Mr. William Fry, Township Supervisor, Township of Erie, Township Hall, 2060 Manhattan Street, Erie, Mich. 48133.

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 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 buidings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Erie	Sterns Rd	578
	Lakewood Rd	578
Bay Creek	Cemetery Rd	601
	Erie Rd	592
	U.S. 24[1]	591
	U.S. 24[2]	590
	Chesapeake and Ohio RR.	590
	Driveway (1,450' upstream of U.S. 25 crossing).	588
	U.S. 25[1]	587
	U.S. 25[2]	586
	U.S. 24A	583
	Driveway (1,900' downstream of U.S. 24A crossing).	581
	Penn Central RR.[1]	580
	do.[2]	579
	Detroit, Toledo and Shoreline RR.	578
	I-75	578

[1] Upstream.
[2] Downstream.

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35847 Filed 12-13-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3732]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR TOWNSHIP OF HAMPTON, BAY COUNTY, MICH.

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 Township of Hampton, Bay County, Mich. 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 Township Hall, 801 West Center Road, Essexville, Mich. Send comments to: Mr. B. Tacey, Township Supervisor, Township of Hampton, Township Hall, 801 West Center Road, Essexville, Mich. 48732.

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 Township of Hampton, 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saginaw River	Weadock Rd	585
Saginaw Bay	Borton Rd	585
	Youngs Ditch Rd	585
	Cass Ave	585

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35348 Filed 12-13-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3733]

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 listed below for selected locations in Wilkin County, Minn. 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 Wilkin County Courthouse, Breckenridge, Minn. Send comments to: Ms. Kathleen Nertin, Chairperson, County Board of Commissioners, Wilkin County Courthouse, Breckenridge, Minn. 56520.

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 Wilkin County, Minn., 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 re-

quirements. 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Otter Tail River	Minnesota Highway 9	962
	County Rd. 164	964
	County State Aid Highway 14	970
	County Rd. 169	989
	County State Aid Highway 19	1,007
Pois De Sioux River	County State Aid Highway 6	968
	County State Aid Highway 9	969

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35349 Filed 12-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3734]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF BRIDGETON, ST. LOUIS COUNTY, MO.

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 Bridgeton, St. Louis 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, 11955 Natural Bridge, Bridgeton, Mo. 63044. Send comments to: The Honorable Alf J. Stole, Mayor, City of Bridgeton, 11955 Natural Bridge, Bridgeton, Mo. 63044.

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 Bridgeton, 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cowmire Creek	At the confluence of East tributary	468
	Just downstream of Norfolk and Western RR	469
	Just upstream of Norfolk and Western RR	480
	1,300 ft upstream of Enterprise Way	481
	Just downstream of Pennridge Dr	488
	Just downstream of Interstate 270	490
	Just downstream of Target store culvert	492
	Just upstream of Target store culvert	497
	Just downstream of McKelvey Rd	497
East Tributary-Cowmire Creek	At the Confluence with Cowmire Creek	468
	1,160 ft upstream of confluence with Cowmire Creek	469
	Just downstream of Nolfolk and Western RR	481
South Tributary-Cowmire Creek	250 ft South of the southern wall of Target store	494
	Just upstream of Target culvert South	496
	Just downstream of McKelvin Rd. Culvert	496
Missouri River	9,770 ft downstream of Norfolk and Western RR	451
	Just downstream of Highway 115	454
South Tributary-Cowmire Creek	250 ft South of the southern wall of Target store	1

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974)).

Issued: November 7, 1977.

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 FREDERICKTOWN, MADISON 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 Fredericktown, 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 City Clerk's Office, City Hall, 120 West Main, Fredericktown, Mo. 63645. Send comments to: The Honorable Richard R. Macke, Mayor, City of Fredericktown, City Hall, 120 West Main, Fredericktown, Mo. 63645.

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 Fredericktown, 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. 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little St. Francis River.	At corporate limits	702
	At Highway 72	705
	At Saline Creek	707
	Upstream at dam	737
Saline Creek	At Sandy Lane	708
	At Lincoln Ave	712
	At Missouri Pacific RR.	715
Toler Creek	At East Main St	713
	At Franklin St	719
	At East Marvin Ave	735
Village Creek	At Catherine Mine Rd.	707
Lateral C	At Newberry St	727
	At corporate limits	766

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 USC 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).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–35351 Filed 12–13–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3382]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF HERCULANEUM, JEFFERSON COUNTY, MO.; CORRECTION

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 42 FR 54373 of the FEDERAL REGISTER of October 5, 1977 (42 FR 54373).

EFFECTIVE DATE: October 5, 1977.

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.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Joachim Creek	100 ft downstream of Interstate 55.	412
Bonacher Creek	At Lake Dr	423
	250 ft upstream of Interstate 55.	436

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–35352 Filed 12–13–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3736]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF OLD MONROE, LINCOLN COUNTY, MO.

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 Old Monroe, Lincoln 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 City Hall, 1st. and Walnut, Old Monroe, Mo. 63369. Send comments to: The Honorable Sharon Brinkman, Mayor, City of Old Monroe, P.O. Box 7, Old Monroe, Mo. 63369.

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 Old Monroe, 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 location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cuivre River	At Eastern corporate limits, 775 ft downstream of Burlington Northern RR.	445
	Just upstream of Route 79.	447
	At intersection of Cuivre St. and Second St.	447

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–35353 Filed 12–13–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3737]

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: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Lordsburg, N.Mex., 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:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Animas Wash	Approximately 60 ft upstream of U.S. Highway 80.	4,243
	Just upstream of Ownby St.	4,250
Cemetery Wash	Pine St. (extended)	4,306
Olliver Wash	Just downstream of Mountain View Rd.	4,189
School Wash	Thirteenth St. (extended).	4,300
	Cactus Dr.	4,329

(National Flood Insurance Act of 1968 (Title XIII of 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, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-35354 Filed 12-13-77;8:45 am]

federal register

WEDNESDAY, DECEMBER 14, 1977
PART III

DEPARTMENT OF THE INTERIOR

National Park Service

■

MINERALS MANAGEMENT

Comprehensive Regulations

[4310–70]

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, new regulations are being proposed that will control all activities resulting from the exercise of rights to oil and gas not owned by the United States on lands or 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 operations. Compliance with the plan 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. §§ 698–698e) and 93–440 (16 U.S.C. § 698f-698m) were passed by Congress, creating the Bag Thicket and Big Cypress 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 United States, 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 reserved 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 consideration of approval of plans of operations (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 proposed for the exploration 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 § 9.37. The degree to which the site of operations must be reclaimed is dependent upon the status of the owner/operator's interest in the surface estate. Reclamation must be guaranteed through the posting of a performance bond. Where the surface estate is not owned by the Federal Government, the operator must have a workable plan for and must perform reclamation of the site, leaving it in a condition which would neither constitute a nuisance to the federally owned land in the vicinity nor result in irreparable injury to those federally owned lands. On all other sites, the reclamation must be to a condition similar to that which existed prior to the initiation of operations so as to avoid any serious adverse impacts to the scenic and ecological values of the area.

Several other specific provisions of these regulations should be noted. In order to quickly and efficiently implement the regulations, all existing special use and other permits authorizing access on, across or through lands of the United States to a site shall expire according to their terms and shall not be renewed unless by the terms of the permit it must be renewed. Any operator seeking new access or access after expiration of an existing permit must comply with the regulations. An approved plan of operations will serve as the operator's new access permit. It is anticipated that with efficient administration of the proposed regulations, and with cooperation from the oil and gas operator, no person will suffer unreasonable delay in regaining access.

Special note should be given to § 9.34 which deals with the 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

the United States has a prior right may be used for oil and gas operations unless the operator requesting such use can conclusively demonstrate that removal from the system of that amount of water will have no adverse impact on the natural system whatsoever.

Also of special note is the requirement that the operator show that the operations will be conducted in a manner which can be demonstrated to be least damaging to the environment. In addition, the method chosen must provide for diligent development and efficient resource recovery as well as providing for public health and safety.

The regulations are designed with the flexibility to allow operators to design plans of operation which are applicable only to that phase contemplated. Each plan need only describe those functions for which the operator wants immediate approval. Consequently, reclamation can also be scaled to the operations proposed. This will speed the approval process for those operations which are basically small and cause few environmental consequences.

DRAFTING INFORMATION

The following principal persons are responsible for the preparation of these proposed regulations: Neal G. Guse, Jr., and Larry May, National Park Service.

IMPACT ANALYSIS

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4331, et seq.) the National Park Service is preparing an environmental assessment of these proposed regulations. Based on this assessment, it will be determined whether implementation of the proposed regulations will be a major Federal action that would have a significant effect on the quality of the human environment, requiring the preparation of an environmental impact statement. The assessment will be on file in the Office of Park Planning and Environmental Compliance, National Park Service, Room 1210, Interior Bldg., 18th and C Streets NW., Washington, D.C. 20240, and will be available for public inspection and comment for a period beginning approximately December 20, 1977, and running concurrently thereafter with the comment period for these proposed regulations.

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

In consideration of the foregoing, it is therefore proposed to amend Part 9 of Title 36, Code of Federal Regulations, by the deletion of the old Part 9—Mining and Mining Claims, and the establishment of a new Part 9—Minerals Management, with Subparts A through D, as set forth below.

Dated: December 7, 1977.

IRA J. HUTCHISON,
Acting Director.

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.

4. Establish new Subpart C, entitled OIL AND GAS LEASING containing §§ 9.60 through 9.99—Reserved.

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:

Sec.
9.30 Purpose and scope.
9.31 Definitions.
9.32 Access permits.
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 Open flows 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.

AUTHORITY: Act of August 25, 1916, 39 Stat. 535 (16 U.S.C. § 1, et seq.); and the acts establishing the units of the National Park System, including but not limited to: Act of April 25, 1947, 61 Stat. 54 (16 U.S.C. § 241, et seq.); Act of July 2, 1958, 72 Stat. 285, (16 U.S.C. § 410, et seq.); Act of October 27, 1972, 86 Stat. 1312, (16 U.S.C. § 460 dd, et seq.); Act of October 11, 1974, 88 Stat. 1256 (16 U.S.C. § 698–698e); Act of October 11, 1974, 88 Stat. 1258 (16 U.S.C. § 698f–698m); Act of December 27, 1974, 88 Stat. 1787, (16 U.S.C. § 460 ff et seq.).

§ 9.30 Purpose and scope.

(a) These regulations control all activities in the exercise of rights to oil and gas not owned by the United States on lands and waters within any unit of the National Park System where access is on, across or through federally owned lands or waters. Such rights arise most frequently in one of two situations: (1) The land is owned in fee, including the right to the oil and gas or, (2) in a transfer of the surface estate to the United States, the grantor reserved the rights to the oil and gas. These regulations are designed to insure that such activities are conducted in a manner consistent with the purposes for which the National Park System and each unit thereof were created, 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.

(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, and leasing is authorized, the applicable regulations can be found at 43 CFR, Group 3100.

(c) These regulations allow operators the flexibility to design plans of operations only for that phase of 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 a plan for the production 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) Secretary. The Secretary of the Interior.

(b) Operations. All functions, work and activities within a unit in connection with exploration for and development of oil and gas resources, the right to which is not owned by the United States, including: prospecting, exploration, surveying, pre-production development, and production; on-site storage; transport or processing of petroleum products; surveillance, inspection, monitoring, or maintenance of equipment; reclamation of the surface disturbed by such activities; and all activities and uses reasonably incident thereto performed within a unit, including construction or use of roads or other means of access on, across or through National Park System lands, regardless of whether such activities and uses take place on Federal, State, or private lands.

(c) Operator. A person conducting or proposing to conduct operations.

(d) Person. Any individual, firm, partnership, corporation, association, or other entity.

(e) Superintendent. The Superintendent, or his designee, of the unit of the National Park System containing lands subject to the rights covered by these regulations.

(f) Commercial Vehicle. Any motorized equipment used in direct and/or indirect support of operations.

(g) Unit. Any National Park System area.

(h) Owner. The owner, or his legal representative, of the rights to oil and gas being exercised.

(i) Regional Director. The Regional Director, or his designee, for the National Park Service region in which the given unit is located.

(j) Designated roads. Those existing roads determined by the Superintendent in accordance with 36 CFR 2.6(b) and 4.19 to be open for the use of the general public or for the exclusive use of an operator.

(k) Oil. Any viscous combustible liquid hydrocarbon or solid hydrocarbon substance easily liquifiable on warming which occurs naturally in the earth, including drip gasoline or other natural condensates recovered from gas without resort to manufacturing process.

(l) Gas. Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperature and pressure conditions.

(m) Site. That land on which operations are to be carried out.

(n) Contaminating substances. Those substances, including but not limited to, salt water or any other injurious or toxic chemical, waste oil or waste emulsified oil, basic sediment, mud with injurious or toxic additives, or injurious or toxic substances produced or used in the drilling, development, production, transportation, or on-site storage, refining, and processing of oil and gas.

§ 9.32 Access permits.

(a) All special use permits dealing with access on, across, or through lands of the United States to a site within any unit shall expire according to their terms and shall not be renewed, unless by the terms of the existing permit it must be renewed. Except as provided by § 9.36(a), any operator seeking new access, or access after the expiration of an existing permit must comply with these regulations, unless access to a site is by pack animal or foot. An approved plan of operations serves as the operator's new access permit.

(b) Prior to the issuance of a permit for access to any site, the operator must file with the Superintendent a plan of operations pursuant to § 9.35. No permit shall be issued until the plan of operations has been approved in accordance with § 9.36.

(c) Any operator intending to use aircraft of any kind for access to a site for operations, must comply with these regulations. Unless otherwise identified in the approved plan of operations, failure of an operator to receive the proper approval prior to using aircraft in this manner is a violation of both these regulations and 36 CFR 2.2(b).

(d) No access to a site outside a unit will be permitted across unit lands unless such access is by foot, pack animal, or designated road. Persons using such roads for access to such a site must comply with the terms of § 9.51 where applicable.

(e) Any operator on a site outside the boundaries of a unit must comply with these regulations if he is using directional drilling techniques, which result in the drill hole crossing into the unit and passing under any land or water the surface of which is owned by the United States. Except, that the operator need not comply in those areas where, upon application of the operator, the Regional Director is able to determine from available data, that such operations pose no significant threat of damage to park resources, both surface and subsurface, resulting from surface subsidence, fracture of geological formations with resultant fresh water acquifer contamination, or natural gas escape, or the like.

§ 9.33 Transfers of interest.

(a) Whenever an owner of rights being exercised under an approved plan of operations sells, assigns, bequeaths, 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 render the approval of any previously approved plan of operations void.

(b) The transferring owner shall remain responsible for compliance with the plan of operations and shall remain 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 his intent to be bound thereby or a new plan of operations; and (2) suitable substitute performance bonds which comply with the requirements of § 9.49.

§ 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 source 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 claim to the water 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 an 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.

(b) The proposed plan of operations shall include, as appropriate to the proposed operations, the following:

(1) The names and legal address of the following persons: 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 metes 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 is 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 sumps, sludge pits, and ponds; 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 such as camps and airstrips.

(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;

(6) An estimated timetable for any phase of operations for which approval is sought and the completion of operations;

(7) The geologic name of the surface formation;

(8) The proposed drilling depth, and the estimated tops of important geologic markers;

(9) The estimated depths at which anticipated water, brines, oil, gas, or other mineral bearing formations are expected to be encountered.

(10) 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 and the quantities and types of mud 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 § 9.39 of this Part;

(12) Provisions for reclamation which will result in compliance with the requirements of § 9.37;

(13) A breakdown of the anticipated costs to be incurred during the implementation of the reclamation plan;

(14) Methods for disposal of all rubbish and other solid and liquid wastes, and contaminating substances;

(15) All steps to be taken to comply with any applicable Federal, State, and local laws or regulations, including the applicable regulations in 36 CFR, Chapter I;

(16) An environmental report analyzing the following:

(i) A description of the natural, cultural, social, and economic environment to be affected by the operations, including a description of the location of all water, abandoned, temporarily abandoned, disposal, production, and drilling wells within a 2-mile radius of an exploratory well and a 1-mile radius of a development well,

(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 minimum 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;

(17) Any other facets of the proposed operations which the operator wishes to point out for consideration; and

(18) 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, minimize or prevent 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 § 9.36(g). No operations shall be conducted on a site within a 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) Until 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.

(2) For operations at a site the surface estate of which is not owned by the federal government, where the operations would constitute a nuisance to federal lands in the vicinity of the operation, or would significantly injure or affect federally owned lands; or

(3) For operations at a site, the surface estate of which is owned by the federal government:

(i) Where the site is in Big Cypress or Big Thicket National Preserves and the operations would destroy the natural or ecological integrity of the unit, or

(ii) Where the site is in any other unit and the operations would be incompatible with the purposes for which the unit was created or would preclude the management of the unit for the preservation of its resource values for the enjoyment of future generations;

(4) Where the operations would result in the destruction of surface resources, such as trees, vegetation, soil, water resources, or loss of wildlife habitat, not required for development of the site;

(5) Where the plan of operations does not satisfy each of the requirements of § 9.35 applicable to the kinds of operations proposed.

(b) Within 60 days of the receipt of a plan of operations, the Regional Director shall make an environmental analysis of such plan, and

(1) Notify the operator that the plan of operations has been approved or rejected; or

(2) Notify the operator that the plan of operations has been conditionally approved, subject to the operator's acceptance of specific provisions and stipulations.

(3) Notify the operator of any modification of the plan of operations which is necessary before such plan will be approved or of additional information needed to effectively analyze the effects that the operations will have on the preservation, management and use of the unit, and to make a decision regarding approval or disapproval of the plan of operations, amount of the performance bond to be posted, and issuance or denial of the plan of operations.

(4) Notify the operator that the plan is being reviewed, but that more time, not to exceed an additional 30 days, is necessary to complete such review, and setting forth the reasons why additional time is required. Provided, however, that days during which the area of operations is in accessible for such reasons as inclement weather, natural catastrophe, Acts of God, etc., for inspection shall not be included when computing either this time period, or that in subsection (b) above; or

(5) Notify the operator that the plan cannot be considered for approval until forty-five (45) days after a final environmental impact statement has been prepared and filed with the Council on Environmental Quality.

(c) Failure of the Regional Director to act on a proposed plan of operations and related permits within the time period specified shall constitute an approval of the plan and related permits for the period identified in the plan of operations, or two (2) years, whichever is less.

(d) The Regional Director's analysis shall include:

(1) An examination of all information submitted by the operator;

(2) An evaluation of measures and timing required to comply with reclamation requirements;

(3) An evaluation of necessary conditions and amount of the bond or security deposit (See § 9.49);

(4) An evaluation of the need for any additional requirements in the plan;

(5) A determination regarding the impact of this operation and the cumulative impacts of all operations on the management of the unit; and

(6) A determination whether implementation by the operator of an approved plan of operations would be a major Federal action significantly affecting the quality of the human environment or would be sufficiently controversial to warrant preparation of an environmental statement pursuant to Section 102 (2)(c) of the National Environmental Policy Act of 1969.

(e) 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 operations. Whenever National Register 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, injure, alter, destroy, or collect any site, structure, object, or other value of historical, archeological, or other cultural scientific importance in violation of the Antiquities Act (16 U.S.C. 431–433) (see 43 CFR, Part 3).

(2) Once approved operations are commenced, the operator shall immediately bring to the attention of the Superintendant 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 within ten (10) working days what action will be taken with respect to such discoveries.

(f) 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 reestablishment, restoration, or referencing of any monuments, corners and bearing trees which are destroyed, obliterated, or damaged by such operations.

(g) Pending approval of a properly submitted plan of operations, the Regional Director may approve, on a temporary basis, the continuation of existing operations if necessary to enable timely compliance with these regulations and with Federal, State, or local laws, or if a suspension of existing operations would result in an unreasonable economic burden or injury to the operator. However, such operations must be conducted in accordance with all applicable laws, and in a manner prescribed by the Regional Director designed to minimize or prevent significant environmental effects.

(h) 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.

§ 9.37 Reclamation requirements.

(a) Within the time specified by the reclamation provisions of the plan of operations, which shall be as soon as possible after completion of approved operations and shall in no case be later than six (6) months thereafter unless a longer period of time is authorized in writing by the Regional Director, each operator shall initiate reclamation as follows:

(1) Where the federal government does not own the surface estate, the operator shall at a minimum:

(i) Remove man-made debris resulting from the operations;

(ii) Remove or neutralize any contaminating substances; and

(iii) Rehabilitate the area of operations to a condition which would not constitute a nuisance or would not adversely affect, injure, or damage federally owned lands, including removal of above ground structures and equipment used for operations, except that such structures and equipment may remain where they are to be used for continuing operations which are the subject of another approved plan of operations or of a plan which has been submitted for approval.

(2) On any site where the surface estate is owned by the federal government, each operator must take steps to restore natural conditions and processes. These steps shall include, but are not limited to:

(i) Removing all above ground structures and equipment used for operations, except that such structures and equipment may remain where they are to be used for continuing operations which are the subject of another approved plan of operations or of a plan which has been submitted for approval;

(ii) Removing all other man-made debris resulting from the operations;

(iii) Removing or neutralizing any contaminating substances;

(iv) Plugging and capping all nonproductive wells and filling dump holes, ditches, and other excavations;

(v) Grading to reasonably conform the contour of the area of operations to a contour similar to that which existed prior to the initiation of operations, where such grading will not jeopardize reclamation;

(vi) Replacing the natural topsoil necessary for vegetative restoration; and

(vii) Reestablishing native vegetative communities.

(b) Reclamation 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 reasonable flow of 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.

(1) The Regional Director may initiate an alteration by notifying the operator in writing of the proposed alteration and the justification therefor. The operator shall have sixty (60) days to comment on the proposal.

(2) The operator may initiate an alteration by submitting to the Superintendent a written statement of the proposal, and the justification therefor.

(b) Any proposal initiated under paragraph (a) of this section by either party shall be reviewed and acted on by the Regional Director in accordance with § 9.36.

§ 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, Everglades National Park, and Big Thicket National Preserve, or within 500 feet of any structure or facility (excluding roads) used for unit interpretation, public recreation or for administration of the unit, unless specifically authorized for environmental reasons by an approved plan of operations.

(b) Whenever 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 plug or other fittings acceptable to the Superintendent shall be used to close the wells.

(c) The operator shall mark each and every operating derrick or well in a 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 preserve these markings.

(d) Around existing or future installations, e.g., well, storage tanks, all high pressure facilities, fences shall be built for protection of unit visitors and wildlife, and protection of said facilities. Fences erected for protection of unit visitors and wildlife shall be of a design and material acceptable to the Superintendent, and shall have at least one gate which is of sufficient width to allow access by fire trucks. Hazards within visitor use areas will be clearly marked with warning signs as well as being fenced.

§ 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.

§ 9.41 Precautions necessary in areas where high pressures are likely to exist.

When drilling in "wildcat" territory, or in any field where high pressures are likely to exist, the operator shall take all necessary precautions for keeping the well under control at all times and shall install and maintain the proper high-pressure fittings and equipment to assure proper well control; under such conditions the conductor string of casing must be cemented throughout its length, unless another procedure is authorized or prescribed by the Superintendent, and all strings of casing must be securely anchored.

§ 9.42 Cable tool drilling precautions.

When drilling with cable tools, the operator shall provide at least one properly prepared imperviously 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. When necessary or required, the operator shall provide a second such pit for sand pumpings 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 imperviously 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 either § 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 skim.

§ 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 and 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 materials deemed to be fire hazards 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 applicable regulations, and the plan of operations as approved, revised or supplemented.

(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 operator's 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 prompty review the action or decision and either reverse his original decision or prepare his own statement, explaining that decision and the reasons therefor, and forward the statement and record on appeal to the Director, National Park Service, for review and decision. Copies of the Regional Director's statement shall be furnished to the aggrieved operator, who shall have 20 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 43 CFR 4.700.)

(b) The official files of the National Park Service on the proposed plan of operations and any testimony and documents submitted by the parties on which the decision of the Regional Director was based shall constitute the record on appeal. The Regional Director shall maintain the record under separate cover and shall certify that it is the record on which his decision was based at the time it is forwarded to the Director of the National Park Service. The National Park Service shall make the record available to the operator upon request.

(c) If the Director considers the record inadequate to support the decision on appeal, he may provide for the production of such additional evidence or information as may be appropriate, or may remand the case to the Regional Director, with appropriate instructions for further action.

(d) On or before the expiration of forty-five (45) days after his receipt of the exceptions to the Regional Director's decision, the Director shall make his decision in writing: *Provided, however,* That if more than forty-five (45) days are required for a decision after the exceptions are received, the Director shall notify the parties to the appeal and specify the reason(s) for delay. The decision of the Director shall include (1) a statement of facts, (2) conclusions, and (3) reasons upon which the conclusions are based. The decision of the Director shall be the final administrative action of the agency on a proposed plan of operations.

(e) A decision of the Regional Director from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal or may be directed to the Director. The Director shall promptly rule on requests for stays. A decision of the Director on request for a stay shall constitute a final administrative decision.

§ 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 I 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.

[FR Doc.77-35494 Filed 12-13-77;8:45 am]

federal register

WEDNESDAY, DECEMBER 14, 1977
PART IV

SECURITIES AND EXCHANGE COMMISSION

■

ISSUER TENDER AND EXCHANGE OFFERS

Proposed Rule and Related Schedule

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-14234; File No. S7-731]

REGULATION OF ISSUER TENDER OFFERS

Proposed Rule Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission proposes for comment a new rule and related schedule regulating issuer tender and exchange offers. If adopted, the proposed rule and schedule would impose substantive and disclosure requirements with respect to tender and exchange offers by issuers for their securities. By providing substantive regulation of issuer tender offers, the Commission seeks to prevent fraudulent, deceptive or manipulative acts or practices which may occur in the absence of such regulation.

DATE: Comments should be submitted on or before February 24, 1978.

ADDRESS: Send comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol St., Washington, D.C. 20549.

Persons wishing to submit written views, data and arguments should file three copies of their comments.

All submissions should refer to File No. S7-731 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mary Sebek, Office of Market Structure and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-8748.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today proposed for comment new Rule 13e-4 and related Schedule 13E-4 pursuant to Sections 3(b), 10(b), 13(e), 14(e) and 23(a) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975)) to regulate certain issuer tender and exchange offers. If adopted, these proposals would require that, in connection with tender and exchange offers for their own equity securities, all issuers with a class of equity securities registered pursuant to Section 12 of the Act or required to file periodic reports pursuant to Section 15(d) of the Act and closed-end investment companies registered under the Investment Company Act of 1940 comply with substantive and disclosure rules which, in part, follow those currently required only in connection with tender and exchange offers by persons other than issuers.

The Commission also wishes to call attention to the recent publication for comment of Proposed Rule 13e-3 (17 CFR 240.13e-3) and Proposed Schedule 13E-3 (17 CFR 240.13e-100) which, if adopted, would regulate going private transactions. See Securities Exchange Act Release No. 14185 (Nov. 17, 1977) 42 FR 60900. If Rules 13e-3 and 13e-4 are adopted, an issuer tender offer which is a "Rule 13e-3 transaction," as defined in paragraph (a)(4) of Proposed Rule 13e-3 (17 CFR 240.13e-3(a)(4)), would have to be effected in compliance with both rules. Since a Rule 13e-3 transaction involving a tender offer may require a different regulatory approach than an issuer tender offer which is not part of a series of transactions causing an issuer to go private, alternative regulatory approaches which the Commission may adopt for going private issuer tender offers are noted in this release and comment is specifically invited on the appropriateness of each such alternative approach.

Proposed Rule 13e-4 and Schedule 13E-4 are based on the Commission's Public Fact-Finding Investigation In the Matter of Beneficial Ownership, Takeovers and Acquisitions by Foreign and Domestic Persons,[1] Congressional hearings,[2] judicial decisions and the Commission's experience with the existing regulatory framework (including its proposed third party tender offer rules).[3] The proposals are not applicable to presently pending tender offers by issuers and, if adopted, would not apply to issuer tender offers announced prior to the effective date.

I. Background

The Williams Act Amendments [4] to the Act provided for federal regulation of tender offers, subject to certain specified exceptions. The 1968 takeover legislation was aimed specifically at tender offers which involved a potential shift of control.[5] Accordingly, the initial version of S. 510 excluded acquisitions through tender offers by issuers for their own securities.[6]

During hearings on the legislation which eventually became the Williams Act, it was suggested that the basic pattern of Section 2 of the pending bill (which eventually became Section 14(d) of the Act) should be equally applicable to tender offers by issuers.[7] In response, the Commission emphasized that disclosure in issuer tender offers differs from that which should be made by a third party during a contest for corporate control,[8] but stated that "[i]f the Commission is given rulemaking power with respect to issuers' purchases as provided in the bill it could, and presumably would, provide separately for tender offers by issuers following the provisions of (Section 14(d)) *to the extent appropriate.*"[9] As adopted, the Williams Act added Section 14(d)(8)(B) to the Act which specifically exempts "any offer for, or request or invitation for tenders of, any security * * * by the issuer of such security * * *" from the provisions of Section 14(d) of the Act.

In addition to the regulation of certain tender offers by persons other than the issuer, the Williams Act also amended Section 13 of the Act by adding paragraph 13(e)(1) which makes it unlawful for an issuer with a class of equity securities registered pursuant to Section 12, or a closed-end investment company registered under the Investment Company Act of 1940, to purchase its equity securities in contravention of rules adopted by the Commission "to define acts and practices which are fraudulent, deceptive or manipulative" and "to prescribe means reasonably designed to prevent such acts and practices."[10] The Williams Act also added Section 13(e)(2) of the Act which attributes purchases by a control person to the issuer.[11]

To date, with the exception of Rule 10b-13 (17 CFR 240.10b-13),[12] which prohibits any person who makes a tender or exchange offer for any equity security from purchasing, during the tender offer, such security otherwise than pursuant to such offer, and Rule 10b-4 (17 CFR 240.10b-4),[13] which prohibits short tendering during any tender offer, the only regulation of issuer tender offers has been pursuant to the antifraud provisions of Section 10(b) (and Rule 10b-5 (17 CFR 240.10b-5) thereunder) and Section 14(e) under the Act.[14]

To a limited extent, the Commission's staff has indirectly regulated certain issuer tender and exchange offers which are exempt from the Williams Act. If an issuer is deemed to be engaged in a "distribution," for purposes of Rule 10b-6 (17 CFR 240.10b-6), of the securities for which the tender offer is being made, an application for an exemption from Rule 10b-6 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.

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 and the public interest, should be replaced by a more direct and comprehensive method of regulation. By providing substantive regulation of issuer tender offers, the Commission seeks to prevent fraudulent, deceptive or manipulative acts or practices which may occur in the absence of such regulation.

Rule 13e-4 is being proposed pursuant to Sections 3(b), 10(b), 13(e), 14(e) and 23(a) of the Act. Accordingly, the proposals set forth herein will apply not only to all tender offers by issuers with a class of equity securities registered

See footnotes at end of article.

pursuant to Section 12 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 pursuant to Section 15(d) of the Act. 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.[15] There is presently no minimum time period for third party tender offers although the 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 security,[16] 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[17] relative to the value of those securities.[18] 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[19] and to the odd lot holders who are generally given the opportunity to dispose of their securities with little or no transaction costs.

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.[20] Thus, the proviso to paragraph (b)(4) of 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.[21] 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 in 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 tender offer which is 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 terms of a tender 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 the same treatment.

3. Withdrawal Rights

Paragraph (b)(5) of Proposed Rule 13e–4 would provide that securities deposited pursuant to the tender 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[22] and, 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 of the original offer 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 all relevant facts 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, assures that a securityholder will not have his securities "locked in" for an unreasonable amount of time.[23] 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.[24]

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."[25] 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 wold be accepted on a pro rata basis regardless of when such securities were tendered.[26]

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 all their securities before accepting securities tendered by others on a pro rata basis.[27]

Clause (C) of the proviso to paragraph (b)(6) of Proposed Rule 13e–4 would permit an issuer to give security holders the opportunity to designate that their tendered securities be accepted on an "all or none" or "part or none" basis rather than pro rata.[28]

5. Consideration

Paragraph (b)(7) of Proposed Rule 13e–4 would require that the same consideration be offered to all security holders[29] 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 a person who makes 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 holders who have 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."[30] 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)(8) of Proposed Rule 13e–4 would prohibit purchases of the subject security by the issuer until at least ten business days after the offer terminates. This provision is intended to supplement and expand the protection afforded by Rule 10b–13.[31] The Com-

See footnotes at end of article.

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 is deemed to be 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, with respect to 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–6,[32] 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.

7. COVERAGE OF THE PROPOSED RULE

(a) *Control persons.* Section 13(e)(2) of the Act states that "[f]or the purpose of this subsection, a purchase by or for the issuer or any person controlling, controlled by, or under common control with the issuer or a purchase subject to control of the issuer or any such person, shall be deemed to be a purchase by the issuer." The Commission believes that purchases by a person in a control relationship with an issuer should not be exempted from substantive tender offer regulation since a tender offer by such a person raises the same potential for fraud, deception, or manipulation as an offer by the issuer itself. As was noted by former Chairman Cohen:

> We have found that purchases by a parent or a subsidiary of the issuer, or anyone else in a control relationship with the issuer, * * * give rise to similar problems (as purchases by the issuer) * * *.[33]

However, purchases by affiliates or persons in a control relationship with an issuer are presently subject to regulation under the Williams Act.[34] Nevertheless, because of the language of Section 13(e)(2) of the Act,[35] the Commission requests that commentators address the issue of whether tender offers by control persons should be exempted from some or all of the provisions of Proposed Rule 13e–4.

(b) *Special Bids.* The Commission has stated that "a 'special bid' to purchase equity securities through the facilities of a national securities exchange * * * would constitute a 'tender offer' or 'request or invitation for tenders' within the meaning of Sections 14(d) and (e) of the Act."[36] The practical effect of this position has been to greatly reduce the prospects of using the special bid technique since it is virtually impossible for a bidder to comply with the withdrawal and proration provisions of Section 14(d).[37]

Since the Commission believes that the notice, withdrawal, proration and other substantive provisions of Proposed Rule 13e–4 are essential for the fair and equal treatment of all securityholders, any benefit an issuer may derive from the use of a special bid[38] is of secondary importance. In order to acquire its own securities, an issuer can still utilize open market or privately negotiated transactions,[39] or, of course, a tender offer.

See footnotes at end of article.

8. EXEMPTIVE AUTHORITY

Paragraph (c) of Proposed Rule 13e–4 would exempt from its provisions calls or redemptions of a security in accordance with the terms of its governing instrument, offers to purchase fractional interests in a security and offers to purchase a security in connection with the statutory rights of dissenting securityholders. In addition, paragraph (c)(4) of Proposed Rule 13e–4 would authorize the Commission, upon written request or its own motion, to exempt any transaction, either unconditionally or on specified terms and conditions, as not constituting a fraudulent, deceptive or manipulative act or practice comprehended within the purpose of the Rule.

IV. SUMMARY OF PROPOSED SCHEDULE 13E–4

Section 13(e)(1) of the Act specifically addresses the need for disclosure in issuer repurchases (including tender offers) by stating that:

> Such rules (adopted by the Commission under Section 13(e)(1)) may require an issuer to provide (shareholders with information) relating to the reasons for such purchases, the source of funds, the number of shares to be purchased, the price to be paid for such securities, (and) the method of purchase * * *

This is not to suggest, however, that the disclosure required by an issuer tender offer rule should exactly parallel third party tender offer disclosure. This was recognized both by commentators[40] and the Commission[41] during the 1967 hearings on the takeover bill. Accordingly, the information which would be required by Proposed Schedule 13E–4 is somewhat different from that required for third party tender offers by Schedule 14D–1.[42] The terms "bidder" and "subject company" contained in Schedule 14D–1 are not used in Schedule 13E–4; instead the term "issuer" is used throughout. In addition, Item 2 of Schedule 14D–1, relating to the identity of the bidder (if other than the issuer), and Item 3 of Schedule 14D–1, concerning past relationships, transactions or negotiations between the bidder and the issuer, are not included in Proposed Schedule 13E–4 because of the absence of a third party bidder. Information comparable to that required by Item 9 of Schedule 14D–1 ("Financial Statements of Certain Bidders") would not be required by Proposed Schedule 13E–4. Because Proposed Rule 13e–4 (unlike Section 14(d)) is intended to apply to issuers required to file periodic reports pursuant to Section 15(d) of the Act, Item 3 of Proposed Schedule 13E–4 ("Purpose of the Tender Offer and Plans or Proposals of the Issuer") contains paragraph (h) (relating to the suspension of the obligation to file periodic reports under Section 15(d) of the Act). Finally, commentators are requested to consider whether Instruction 2 to Item 4 of Proposed Schedule 13E–4 ("Interests in Securities of the Issuer"), which is intended to facilitate efforts to preserve the confidentiality of the tender offer in order to avoid possible misuse of inside information, would adequately achieve that purpose.[43]

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 adequate 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, it must also make a reasonable effort to send such statement (or summary) to all beneficial holders of the subject securities. An issuer shall be deemed to have made 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 14D–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 to recommend against 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.[44]

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 paragraph (b)(6) of Proposed Rule 13e–4,

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 requests comment on whether the 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.

EFFECTS 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 Proposed Rule 13e–4 and Proposed Schedule 13E–4 on competition in light of the purposes of the Act are specifically requested.[45]

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–101 pursuant to the authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29, 89 Stat. 97 (June 4, 1975)). Rule 13e–4 and Schedule 13E–4 are proposed pursuant to Sections 3(b), 10(b), 13(e), 14(e) and 23(a) of the Act (15 U.S.C. 78c(b), j(b), m(e), n(e) and w(a)).

§ 240.13e–4 Tender offers by issuers.

(a) It shall be a fraudulent, deceptive or manipulative act or practice for an issuer which has a class of equity securities registered pursuant to Section 12 of the Act or which is required to file periodic reports pursuant to Section 15 (d) of the Act or which is a closed-end investment company registered under the Investment Company Act of 1940, to purchase, directly or indirectly, any of its equity securities in a tender or exchange offer:

(1) As to which adequate disclosure of the terms of the offer, its purpose and other material information relevant to the offer has not been made;

(2) Which unreasonably discriminates among holders of securities which are the subject of the offer;

(3) Which is of unduly short duration or unduly restricts the right of persons tendering in response to the offer to withdraw their tendered securities;

(4) As to which the issuer unduly delays either the payment for securities tendered and accepted or the return of securities not accepted; or

(5) Which is employed by an issuer, directly or indirectly, for the purpose of creating or sustaining false or misleading market prices for the securities which are the subject of the offer.

(b) As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices in connection with tender offers subject to the provisions of paragraph (a) of this section, it shall be unlawful for an issuer which has a class of equity securities registered pursuant to Section 12 of the Act or which is required to file periodic reports pursuant to Section 15(d) of the Act or which is a closed-end investment company registered under the Investment Company Act of 1940, directly or indirectly, to make a tender offer for any class of its equity securities unless simultaneously with or prior to the time the tender offer is first published, sent or given to securityholders:

(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, or 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 or summary to all record holders, it makes a reasonable effort to send the statement or summary to all beneficial holders of its subject securities. For purposes of this section, an issuer which follows the procedures specified in Instruction (1)(B) of Schedule 13E–4 shall be deemed to have made a reasonable effort to send the statement or summary.

(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 until the expiration of ten business days after the time definitive copies of the offer or request or invitation are first published, sent or given to securityholders, and, if not accepted for payment by the issuer, 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 after commencement of the tender offer exceeds the number of securities that will be accepted, all securities tendered will be accepted as nearly as possible on a pro rata basis (disregarding fractions) according to the number of securities tendered by each securityholder. The provisions of this section shall also apply to securities deposited within ten business days after notice of an increase in the consideration offered to securityholders, as described in paragraph (b)(7), of this section, is first published, sent or given to securityholders; *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 holders of 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 may provide for the same formula 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 returns the securities deposited by or on behalf of securityholders within a reasonable time after the termination of the tender offer.

(c) This rule shall not prohibit:

(1) Calls or redemptions of any security in accordance with the terms and conditions of the governing instruments;

(2) 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;

(3) Offers to purchase securities pursuant to a statutory procedure for the purchase of dissenting securityholders' securities; or

(4) 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 fraudulent, deceptive 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 following:

(A) *Long-form publication.* Publishing the formal offer containing the information required by paragraph (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 may only require publication in a newspaper with metropolitan or regional circulation;

See footnotes at end of article.

(B) *Use of stockholder and other lists.* Mailing the formal offer containing the information required by paragraph (b)(1) of this section to all persons named on the issuer's most recent list of securityholders, furnishing the number of copies of the formal offer requested by brokers, banks and similar persons whose names appear or whose nominees appear on the list of securityholders or who are listed as participants on the most recent security position listing of any clearing agency which acts as a depository requesting such persons to 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 shall include at least:

(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; and

(6) A statement that the information required by paragraph (b)(1) of this section is incorporated by reference into the summary advertisement of the tender offer.

INSTRUCTION

(2) Material changes to the information first published, sent or given to securityholders pursuant to this section shall be promptly disseminated by the issuer in the manner in which the formal offer was first published, sent or given to securityholders.

§ 240.13e-101 Schedule 13E-4. Tender Offer Statement Pursuant to Section 13(e)(1) of the Securities Exchange Act of 1934.

(Amendment No. ____)

(Name of issuer)

(Title of class of securities)

(CUSIP number of class of securities)

(Name, address and telephone number of person authorized to receive notices and communications on behalf of the issuer)

NOTE.—Ten copies of this statement, including all exhibits, should be filed with the Commission.

INSTRUCTIONS

A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required.

C. If the statement is filed by a partnership, limited partnership, syndicate or other group, the information called for by Items 2–7, inclusive, shall be given with respect to (i) each partner of such partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the issuer is a corporation or if the statement is filed by a corporation the information called for by Items 2–7 shall be given with respect to (a) each executive officer and director of such corporation; and (b) each person controlling such corporation; and (c) each executive officer and director of any corporation ultimately in control of such corporation. Executive officer shall mean the president, secretary, treasurer and vice president in charge of a principal business function (such as sales, administration or finance) and any other person who performs similar policy making functions for the corporation. It is assumed that a response to an item in the statement is made with respect to the issuer referred to in this Instruction unless 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 disclosing all material changes in the items of 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 outstanding of the class of securities being sought; the exact amount of such securities being sought and the consideration being offered therefore; whether any such securities are to be purchased from an officer, director or control person of the issuer or any affiliate of the issuer, and the details of each such transactions; and

(c) Identify the principal market in which such securities are being traded and state the high and low sales prices for such securities as reported in the consolidated transaction reporting system or such principal exchange (or, in the absence thereof, the range of high and low bid quotations) for each quarterly period during the past two years.

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, directly or indirectly, borrowed for the purpose of the tender offer:

(1) Provide a summary of each loan agreement or arranagement containing the identity of the parties, the term, the collateral, the stated and effective interest rates, and other material terms or conditions relative to such loan agreement; and

(2) Briefly describe any plans or arrangements to finance or repay such borrowings, or if no such plans or arrangements 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 3(a)(6) of the Act, the issuer filing the Schedule 13E-4 may request, in accordance with the provisions of Rule 24b-2 (17 CFR 240.24b-2) under the Act, that the name of such bank not be made available to the public.

Item 3.—Purpose of the tender offer and plans or proposals of the issuer. State 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, indicating such disposition, and any plans or proposals which relate to or would result in:

(a) An extraordinary 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 plans or proposals to change the number or the term of directors or to fill any existing vacancies on the board;

(d) Any 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, any plans or proposals to make any changes in its investment policy for which a vote would be required by Setcion 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 authorized to be quoted in 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.

(h) 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. Describe any transaction in the class of subject securities that was effected during the past 40 business days by any person referred to in Instruction C and by each associate or subsidiary of such person, including any executive officer or director of any such subsidiary.

INSTRUCTIONS

1. The description of a transaction required by this Item shall include, but not necessarily be limited to: (1) The identity of the person covered by this Item who effected the transaction; (2) the date of the transaction; (3) the amount of securities involved; (4) the price paid for each such security; and (5) where and how the transaction was effected.

2. If the information required by this Item is available to the issuer at the time this statement is initially filed with the Commission pursuant to Rule 13e-4 (§ 240.13e-4(b)), such information should be included in such initial filing. However, if such information is not available to the issuer at the time of such initial filing, it should be filed with the Commission promptly but in no event later than two business days after the date of such filing and, if material, should be disclosed to securityholders of the issuer in a manner similar to that in which the tender offer was first published, sent or given to such securityholders.

Item 5.—Contracts, Arrangements, Understandings or Relationships With Respect to the Issuer's Securities. Describe any contract,

See footnotes at end of article.

arrangement, understanding or relationship (whether or not legally enforceable) between the issuer (including those persons enumerated in Instruction C to this schedule) 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, guaranties of loans, guaranties against 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 by any person on behalf of the issuer, to make solicitations or recommendations in connection with the tender offer and describe briefly the terms of such employment retainer or arrangement for compensation.

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 between the issuer and its executive officers, directors and affiliates (other than any contract, arrangement or understanding required to be disclosed pursuant to Item 5 of this schedule);

(b) Any applicable regulatory requirements which must be complied with or approvals which must be obtained 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 material pending legal proceedings relating to the tender or exchange offer, including the name and location of the court or agency in which the proceedings are pending, 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.

Item 8.—Material to be filed as exhibits. Furnish a copy of:

(a) Tender offer material which is published, sent or given to securityholders by or on behalf of the issuer in connection with the tender offer;

(b) Any loan agreement referred to in Item 2 of this schedule; *Provided, however,* 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 Rule 24b–2 under the Act, that the identity of such bank not be made available to the public;

(c) Any document setting forth the terms of any contracts, arrangements, understandings or relationships referred to in Items 5 or 7(a) of this schedule;

(d) Any written opinion prepared by legal counsel at the issuer's request and communicated to the issuer pertaining to the tax consequences of the tender offer;

(e) In an exchange offer where securities of the issuer have been or are to be registered under the Securities Act of 1933, the prospectus containing the information required to be included therein by Rule 434b (§ 230.434b) of that Act;

(f) If any oral solicitation of securityholders is to be made by or on behalf of the issuer, any written instruction, form or other material which is furnished to the persons making the actual oral solicitation for their 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 his authorized representative. If 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. 2, 3, 82 Stat. 454, 455, secs. 1, 2, 3–5, 84 Stat. 1497, secs. 3, 18, 89 Stat. 97, 155, (15 U.S.C. 78c(b), 78j(b), 78m(e), 78n(e), 78w(a).)

The Commission hereby proposes for comment proposed Rule 13e–4 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–4 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 below in a cursory manner; for a complete discussion, interested persons should refer to the text of this release.

1. Whether tender offers by control persons of an issuer should be exempted from some or all of the provisions of Proposed Rule 13e–4;

2. Whether the requirement in paragraph (b)(4) of Proposed Rule 13e–4 that the tender offer be extended to all holders of the class of subject securities creates a conflict in those instances in which a tender offer cannot be made in certain jurisdictions;

3. Whether tender offer material should be disseminated to beneficial holders of subject securities;

4. 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;

5. Whether there is a need for a recommendation statement in connection with issuer tender offers and, if so, the content of such a statement;

6. Whether it is necessary to limit the duration of an issuer tender offer;

7. Whether withdrawal rights (in addition to those contemplated by paragraph (b)(5) of Proposed Rule 13e–4) should be afforded tendering securityholders;

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 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)(8) 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.

See footnotes at end of article.

FOOTNOTES

[1] Securities Act Release Nos. 5529 (Sept. 9, 1974) 39 FR 33835, and 5538 (Nov. 5, 1974) 39 FR 41223.

[2] See, e.g., Hearings Before the Senate Committee on Banking, Housing and Urban Affairs on Corporate Takeovers, 94th Cong., 2d Sess. (1976).

[3] Securities Exchange Act Release No. 12676 (Aug. 2, 1976) 41 FR 33004 ("Release No. 34–12676"). The proposed tender offer rules are still under active consideration by the Commission and its staff. To the extent that the provisions of Proposed Rule 13e–4 differ 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.

[4] Pub. L. 90–439; 82 Stat. 454 (July 28, 1968).

[5] Hearings on S. 510 Before the Subcomm. on Securities of the Senate Committee on Banking and Currency, 90th Cong., 1st Sess. at 115–116 (1967) ("Senate Hearings").

[6] 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, reflected the Commission's earlier comments on S. 2731, Senator Williams' original tender offer legislative proposal, which he introduced on October 22, 1965. 111 Cong. Rec. 28528 (1965). The Commission had commented that "the protections in the bill for shareholders regarding issuer acquisitions) appear to be an appropriate counterpart to the protections preventing deceptive or unfair practices in attempts by others to take over from existing management." "Memorandum of the Securities and Exchange Commission to the Committee on Banking and Currency, U.S. Senate, on S. 2731, 89th Cong." 112 Cong. Rec. 19003, 19005 (1966).

[7] "[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, prescribed contents of soliciting letter, right of withdrawal, pro rata instead of first-come first served basis of selection, giving early depositors the benefit of later increases in price—should be equally applicable to issuers' offers." Letter dated March 24, 1967 to Senator Harrison A. Williams, Jr. from Milton Cohen, Esq.; Senate Hearings at 248.

[8] "[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. 510"; Senate Hearings at 202.

[9] Id. (emphasis supplied).

[10] 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 source of funds, the number of 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 sold."

[11] Section 13(e)(2) was amended in 1970 to give the Commission rulemaking authority to treat certain purchases as not being made on behalf of an issuer. Pub. L. 91–567, 84 Stat. 1497 (Dec. 22, 1970).

[12] Rule 10b–13 was proposed in 1968, see Securities Exchange Act Release No. 8391 (Aug. 30, 1968) 33 FR 13036; republished in 1969, see Securities Exchange Act Release No. 8595 (May 5, 1969) 34 FR 7547; and adopted in 1969, see Securities Exchange Act Release No. 8712 (Oct. 8, 1969) 34 FR 15836.

[13] Rule 10b–4 was proposed and adopted in 1968, see Securities Exchange Act Release Nos. 8224 (Jan. 3, 1968) 33 FR 573, and 8321 (May 28, 1968) 33 FR 8269. Amendments to Rule 10b–4 were recently published for comment by the Commission, see Securities Exchange Act Release No. 14157 (Nov. 8, 1977) 42 FR 59280.

[14] Tender offers by issuers are subject to Section 14(e). See *"Smallwood* v. *Pearl Brewing Co.,"* 489 F. 2d 579, 595–96 (Feb. 19, 1974) (5th Cir.), cert. denied, 419 U.S. 873 (1974). See also "Henry Heide, Inc.," (1972–1973 Transfer Binder) CCH Fed. Sec. L. Rep. ¶ 78,838, at 81,836 (May 1, 1972); "Heine v. The Signal Companies, Inc.," CCH Fed. Sec. L. Rep. ¶ 95,898, at 91,316 (dictum) (S.D.N.Y.) (Mar. 4, 1977).

[15] See Proposed Rule 14e–2(a); Release No. 12676.

[16] Issuers may be prohibited from extending to, or requesting offers from, residents of a particular state because of the inability to secure necessary regulatory approval (e.g., some states require that there be a prior finding that an offer is fair). The Commission solicits comment on the apparent conflict created if an offer cannot be made in certain jurisdictions and the requirement, in paragraph (b)(4) of Proposed Rule 13e–4, that an issuer tender offer be extended to all 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.

[17] The Commission's Street Name Study discussed issuer-shareholder communications such as proxy material, quarterly reports and routine communications. Regarding the costs of one type of communication, the Commission found that, among 71 issuers sending proxy materials directly to recordholders, the annual cost of mailing such materials ranged from $.34 to $1 per registered holder. The cost per holder of sending proxy materials through intermediaries (e.g., banks and brokers) to such holders ranged from $1.36 to $2.37. "See Final Report of the Securities and Exchange Commission on the Practice of Recording the Onwership of Securities in the Records of the Issuer in Other Than the Name of the Beneficial Owner of Such Securities" 24, 25 (Committee Print 1976).

In a 1971 study of 76 companies listed on the New York Stock Exchange, 3 companies reported total annual stockholder servicing costs of less than $1 per shareholder; 20 companies reported such costs to be between $1 and $1.99; 31 companies reported such costs to be between $2 and $4.99; 9 companies reported such costs to be between $5 and $9.99; and 13 companies reported such costs to be $10 or more. Young and Marshall, Controlling Shareholder Servicing Costs, 49 Harv. Bus. Rev. 71, 74 (1971) ("Young and Marshall").

[18] Young and Marshall at 75. The authors concluded that shareholder servicing costs vary almost linearly with the number of shareholders.

[19] The Commission specifically solicits comments regarding the extent to which an issuer and its remaining securityholders derive financial benefits from a tender offer made to the issuer's odd lot securityholders, and whether such benefits are justified in light of the purposes of Proposed Rule 13e–4.

[20] Odd lot tender offers to owners of a specified number of shares less than one hundred shares are not uncommon, e.g., a tender offer to all owners of fifty shares or less. The Commission specifically solicits comments on whether such a limited offer, discriminating among odd lot owners, is appropriate.

[21] Odd lot tender offers are sometimes limited to record holders. Accordingly, persons beneficially owning in the aggregate less than 100 shares, but holding such shares through brokers in "street" name or otherwise than of record, 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.

[22] 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. 34–12676. The seven day withdrawal period was designed to give shareholders who tender at the beginning of an offer "a short period within which to reconsider." See S. Rep. No. 550, 90th Cong., 1st Sess. at 10 (1967); H.R. Rep. No. 1711, 90th Cong., 2d Sess. at 10 (1968).

[23] Proposed Rule 13e–4 utilizes the term "business days." The forty business day period in paragraph (b)(5) of the proposed Rule approximates the sixty day period in Section 14(d)(5). The sixty day withdrawal period in Section 14(d)(5) was intended to prevent "tendered securities from being tied up indefinitely awaiting a decision by the person making the offer as to whether or not he will purchase them." 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 "* * * 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 198. 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 need for additional rulemaking to address this situation. See infra at 33–34.

[24] See paragraph (b) of Proposed Rule 14d–5; Release No. 12676.

[25] See Senate Hearings at 21 (1967); H. Rep. No. 1711, 90th Cong., 2d Sess. at 11 (1968).

[26] See Proposed Rule 14d–8; Release No. 34–12676. The Commission had originally recommended, and the Williams bill, as originally drafted, would have provided, that the pro rata acceptance requirement apply 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 pro rata approach should be prohibited, we do not think it should be required by law as the only permissible method."

Senate Hearings at 77. The Senate Subcommittee followed this suggestion and modified the original bill to require pro rata acceptance only for those securities tendered during the first ten days of an offer. See S. Rep. No. 550, 90th Cong., 1st Sess. at 4 (1967); see also Section 14(d)(6).

[27] The exception from the requirement of pro rata acceptance for odd lots is intended to avoid the otherwise self-defeating result of a reduction in the size of odd lot holdings rather than a reduction in the number of such holdings.

[28] 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.

[29] In recognition of the manner in which certain odd lot offers are made (e.g., at the market price prevailing when the securities are received by the issuer), the proviso to paragraph (b)(7) of Proposed Rule 13e–4 would permit an issuer to offer the same formula for payment to all holders of less than one hundred shares of its equity securities even though this may result in different consideration being paid to tendering securityholders. If the tender offer is deemed to be a "Rule 13e–3 transaction" (see pages 2–3 supra), permitting acceptance of tendered securities on a formula basis from odd lot securityholders may not satisfy the element of fairness required by Proposed Rule 13e–3. Comment is requested on whether the proviso to paragraph (b)(7) of Proposed Rule 13e–4 should apply to tender offers which would be "Rule 13e–3 transactions."

[30] S. Rep. No. 550, 90th Cong., 1st Sess. at 10 (1967).

[31] Rule 10b–13 prohibits any person making a tender or exchange offer for any equity security, including an issuer, from purchasing, or arranging to purchase, any such security (or any other security immediately convertible into or exchangeable for such security) otherwise than pursuant to such offer from the time the offer is publicly announced or otherwise made known to securityholders until the expiration of the offer.

[32] Proposed Rule 14d–6 (see Release No. 34–12676) would integrate with the tender offer, for the purpose of Section 14(d), any purchase made by a bidder within forty business days after the tender offer terminates. Comments received on Proposed Rule 14d–6 indicated that practical and legal difficulties were presented by a proposal which attempted to apply pro rata and withdrawal requirements to purchases by a bidder following the termination of its tender offer. In response to such comments, the staff is considering modifying Proposed Rule 14d–6 in the manner discussed in the text.

[33] Senate Hearings at 27–28.

[34] See S. Rep. No. 1125, 91st Cong., 2d Sess. at 4–5 (1970). The exemption from Section 14(d) provided by paragraph (8)(B) 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).

[35] The first sentence of Section 13(e)(2), which was added to the Act in 1970, has the effect of bringing purchases by control persons within the coverage of the section. The second sentence, rowever, gives the Commission rulemaking authority, including the authority to adopt "exemptive rules and regulations covering situations in which the Commission deems it unnecessary or inappropriate that a purchase (by a control person) should be deemed to be a purchase by the issuer * * *." See note 11 supra.

[36] See Securities Exchange Act Release No. 8392 (Aug. 30, 1968) 33 FR 14109. The Commission further stated that " [a]ny such bid, therefore, can be lawfully made only in accordance with the provisions of those sections, including paragraph (5), withdrawal provisions, and paragraph (6), pro rata provisions, of Section 14(d), and the rules and regulations thereunder." Id.

[37] Pursuant to New York Stock Exchange Rule 391 and American Stock Exchange Rule 560, 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 current bid or the last sale, and generally is substantially higher, although the price cannot be higher than the current asked price, unless specifically permitted by the applicable exchange. All orders are executed at the bid price until the bid is satisfied or withdrawn. The withdrawal of a special bid requires the approval of the exchange, and, unless otherwise specifically exempted, must remain open for a minimum period of fifteen minutes. The special bid procedure is premised upon a determination that the regular auction market for the subject security cannot efficiently satisfy the order.

[38] A special bid is generally less expensive and quicker, and may require less of a premium over the market price, than a traditional tender offer.

[39] See Securities Exchange Act Release Nos. 8930 (July 13, 1970) 35 FR 11410, and 10539 (Dec. 6, 1973) 38 FR 34341 in which the Commission published for comment, and republished a revised version of, Proposed Rule 13e–2 under the Act which, if adopted, would regulate an issuer's purchases of its own securities. The Commission remains concerned that an issuer's purchases of its own securities may be effected for manipulative purposes. See *"Securities and Exchange Commission* v. *Chromalloy American Corp.,* et al.," Litigation Release No. 7850 (Mar. 30, 1977). See also *"Securities and Exchange Commission* v. *Georgia-Pacific Corp.,"* CCH Fed. Sec. L. Rep. ¶ 91,692 (S.D.N.Y.) (May 23, 1966).

[40] "[T]he details of disclosure [for issuer tender offers] would differ from those applicable to non-issuer tender offers * * *" Senate Hearings at 115–116 (1967).

[41] [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." Senate Hearings at 202 (1967).

[42] See Securities Exchange Act Release No. 13787 (July 28, 1977) 42 FR 38341.

[43] The class of persons covered by Item 4 of Proposed Schedule 13E–4 is substantially similar to that covered by Item 6 of Schedule 14D–1 ("Interest in securities of the Subject Company"). However, commentors are requested to consider the breadth of the coverage since an issuer tender offer may not require disclosure co-extensive with that required for third party offers.

[44] In connection with third party offers, proposed amendments to Rule 14d–4 under the Act, if adopted, would require the filing with the Commission, under certain circumstances, of a proposed Schedule 14D–4 Recommendation Statement. See Release No. 34–12676.

[45] In responding, commentors should consider the effects on competition that may result from different disclosure and substantive requirements for issuers and third parties in a contested tender offer.

[FR Doc.77–35567 Filed 12–13–77;8:45 am]

federal register

WEDNESDAY, DECEMBER 14, 1977

PART V

ENVIRONMENTAL PROTECTION AGENCY

LEAD

Ambient Air Quality Standard

[6560–01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 50]

[FRL 821–4; Docket Number OAQPS 77–1]

LEAD

Proposed National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

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 ($\mu g\ Pb/m^3$), monthly average. Following promulgation of the standard, States will develop implementation plans for EPA approval which demonstrate how the standard will be attained 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, the lowest levels of lead exposure associated with 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 a goal for total lead exposure lower than previously advocated 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 regulatory 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 these difficult issues related to setting the level of the ambient air quality standard for lead and will seek to involve the public and other affected Federal agencies, both on the final decisions on this air standard as well as planning on ways to control population exposure to lead from non-air sources.

DATES: Comments must be received by February 17, 1978. There will be a public hearing on January 17, 1978. The standard will be promulgated by June, 1978.

ADDRESS: Send comments to: Mr. Joseph Padgett, Director, Strategies and Air Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

A public hearing will be held at: Environmental Protection Agency, 401 M. Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Padgett, Director, Telephone: 919–541–5204.

Availability of supporting information: A docket (Number OAQPS–77–1) containing information used by EPA in development of the proposed standard is available for public inspection between 8 a.m. and 4:30 p.m. Monday through Friday, at EPA's Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

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 Statement and an Economic Impact Assessment available upon request from Mr. Joseph Padgett at the address shown above.

The documents "Air Quality Criteria for Lead" and "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 with consequent absorption into the blood stream and distribution to all body tissues. Clinical, epidemiological, and toxicological studies have demonstrated that exposure to lead adversely affects human health.

EPA's initial approach to controlling lead in the air was to limit the lead emissions from automobiles, the principal source of lead air emissions. In January of 1972, EPA proposed regulations under Section 211 of the Clean Air Act for phase-down of the lead in gasoline. Subsequently, this action was divided into the promulgation of regulations for the availability of lead-free gasoline for catalyst-equipped cars and other vehicles certified for unleaded fuel and reproposal 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 1976.

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 March 31, 1976, and proceeded to develop air quality criteria and the standard.

In proposing this air standard, EPA is concerned that there are reciprocal effects between the goals and actions taken 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, 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 parallel with developing the proposed standards, EPA has used information available to assess the economic impact of technological controls necessary to reduce air emissions of lead from industrial facilities. For primary copper smelters, primary and secondary lead smelters, gray iron foundries and battery plants, attaining the standard may require control of fugitive lead emissions, i.e., those emissions escaping from process steps, other than emissions from smoke stacks. 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 Clear 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 useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities. The criteria for an air pollutant, to the extent practicable, shall include information on—

(A) those variables factors (including atmospheric conditions) which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant;

(B) the types of air pollutants which, when present in the atmosphere, may inter-

act with such pollutant to produce an adverse effect on public health or welfare; and

(C) any known or anticipated adverse effects on welfare.

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 the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health. Such primary standards may be revised in the same manner as promulgated.

(2) 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 welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. 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 a judgment issue in which the Agency should consider the severity of adverse effects, 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 blood lead 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 is 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.

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 include: lead from paint and inks, lead from water supplies and distribution systems, lead from pesticides, and lead in fresh and processed food. The relative contribution to population exposure from each source is difficult to quantify.

2. Exposure to air lead can occur directly by inhalation, or indirectly by ingestion of lead contaminated food, water, or non-food materials including dust and soil.

3. There is a significant variability in response to lead exposure. Certain subgroups within the population are more susceptible to the effects of lead or have a greater potential for exposure. Of these, young children represent a population of foremost concern. Even within a particular population, group response to lead exposure may vary widely from the average response.

4. Within the human body, three systems appear to be most sensitive to interference by lead—the blood-forming or hematopoietic system, the nervous system, and the renal system. In addition, lead has been shown to affect the normal functions of the reproductive, endocrine, hepatic, cardiovascular, immunologic, and gastrointestinal systems.

5. Effects reported in the Criteria Document range from impairment of biochemical systems (inhibition of aminolevulinic acid dehydratase (ALAD)) at a blood lead level of 10 micrograms lead per deciliter blood (μg Pb/dl) to encephalopathy at 80 to 100 μg Pb/dl.

6. From various studies of lead exposure, estimates can be made of the impact of exposure through inhalation and ingestion on blood lead level. Of particular importance, are the estimates of: air lead/blood lead ratios, the percentage of deposition and absorption of air lead, the percentage of absorption of ingested material, estimates of the variability of blood lead within a population exposed to uniform levels of lead, and estimates of the contribution of air lead to blood lead.

Determination of a proposed level for the lead standard requires the use and interpretation of specific information for each of these areas. The approach taken is described in the following sections.

GENERAL APPROACH TO SETTING THE LEAD STANDARD

Development of the National Ambient Air Quality Standard for lead requires certain judgments by EPA about the relationship between concentrations of lead in the air and possible adverse health effects experienced by the public. This relationship is greatly complicated by the fact that lead in the air is not the only source of lead exposure; that there is variability of response among individuals exposed to lead; and that there are numerous effects of lead on health, occurring at various levels of exposure which vary in public health significance.

In developing the standard, EPA has made judgments in five key areas.

1. Determining the critically sensitive population.

2. Determining the pivotal adverse health effect.

3. Determining the mean population blood lead level which would be consistent with protection of the sensitive population.

4. Determining the relationship between air lead exposure and resulting blood lead level.

5. Determining the allowable blood lead increment from air.

DETERMINING THE CRITICALLY SENSITIVE POPULATION

Certain subgroups within the general population differ in sensitivity to lead exposure. Protection of populations exhibiting the greatest sensitivity of response to lead is a major consideration in determining the level of the lead standard. From information presented in the Criteria Document, there are 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 at greater risk than adults due to (1) greater intake of lead via inhalation and ingestion per unit body weight; (2) greater absorption and retention of ingested lead; (3) physiologic stresses due to rapid growth rate and dietary habits; (4) incomplete development of metabolic defense mechanisms; and (5) greater sensitivity of developing systems.

Pregnant women and the fetus are at risk because of transplacental movement of lead to the fetus and the possibility of maternal complications at delivery. Because there is a balance between maternal blood lead levels and fetal blood lead levels, concern exists that development of the nervous system of the fetus may be impaired due to neurotoxicity of lead. Changes in fetal heme synthesis and premature births have been associated with prenatal exposure of the fetus to lead. However, available evidence does not indicate that pregnant women and the fetus would require a more stringent standard than young children.

Groups exposed to lead in the workplace also comprise a population at greater risk. Because members of such groups are generally healthy and do not have a greater physiological sensitivity to lead than young children, EPA believes that the protection of such groups does not require an air quality standard for lead more stringent than that for young children.

Other possible critically sensitive populations suggested in the Criteria Document include individuals with genetic conditions such as sickle cell disease. The Criteria Document cites a tentative association between the existence of sickle cell disease in children and increased risk of peripheral neuropathy due to lead exposure. Individuals suffering from iron deficiency or malnutrition may also be at greater risk from lead exposure. There is, however, insufficient data to determine the effects threshold for such groups or to accurately characterize such groups within the general population.

DETERMINING THE PIVOTAL ADVERSE HEALTH EFFECT

The toxic effects of lead resulting from high levels of exposure are well documented. Among the first effects noted historically were the severe and sometimes fatal consequences such as colic, palsy, and encephalopathy which followed acute occupational exposure in the mining and smelting industries. Exposure to high concentrations of lead in paints, inks, pesticides, and plumbing have similarly been implicated in cases of severe poisoning.

Recent widespread increase of lead in the environment as a result of human activities has stimulated research on the possible effects of the longer-term, low level exposure characteristic of the general populaion. Clinical and epidemiological studies have revealed that lead accumulates in the body throughout life, to a large extent immobilized in bone, but with a significant mobile fraction in the blood and soft tissues. Blood lead concentrations respond predictably to changes in the level of environmental exposure and, as a result, are generally accepted as good indicators of that exposure as well as of the internal dose of lead to which all body tissues are exposed. The threshold for a particular health effect is considered to be the blood 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

Blood lead threshold in micrograms of lead per deciliter	Effect	Population group
10	ALAD inhibition.	Children and adults.
15 to 20	Erythrocyte protoporphyrin elevation.	Women and children.
40	Increased urinary ALA excretion.	Children and adults.
40	Anemia.	Children.
40	Coproporphyrin elevation.	Adults and children.
50 to 60	Central nervous system (CNS) deficits.	Children.
50 to 60	Peripheral neuropathies.	Adults and children.
80 to 100	Encephalopathic symptoms.	Children.

ALAD 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 significant accumulation of precursors 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 synthetic pathway.

In regard to the implications for health of EP elevation, the Criteria Document provides the following description:

> Accumulation of photoporphyrin in the erythrocytes is the result of decreased efficiency of iron insertion into protoporhpyrin, 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 protoporhpyrin without iron accumulate in the erythrocyte, occupying the available heme pockets in hemoglobin.
>
> The effect of lead on iron incorporation into protoporphyrin is not limited to the normoblast and/or to the hematopoietic system. Formation of the heme-containing protein, cytochrome-P450, which is an integral part of the liver mixed-function oxidase, may also be inhibited by lead. Accumulation of protoporphyrin in the presence of lead has been shown to occur also in cultured cells of chick dorsal root ganglion, indicating that inhibition of heme synthesis takes place in the neural tissue as well. These observations, and the fact that lead is known to disrupt the mitochondrial structure and function, indicate that the lead effect on heme synthesis is exerted on all body cells, possibly with different dose/response curves holding for effects in different cell types. On the other hand, it must be noted that increased levels of protoporphyrin in the erythrocyte reflect an accumulation of substrate and therefore imply a functional alteration of mitochondrial function in the same way that the increased urinary excretion of urinary δ-ALA implies impairment. In other words, if a "reserve" activity of ferrochelatase exists, such as has been suggested for δ-ALAD, accumulation of protoporphyrin in the erthrocytes indicates that this has been hampered by the lead effect to the point that the substrate is accumulated. For these reasons, as well as for its implication of the impairment of mitochondrial function, accumulation of protoporphyrin has been taken to indicate physiological impairment relevant to human health.

The remaining effects listed in the table present progressively greater health risks to susceptible individuals including anemia, the possibility of irreversible 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 due to lead should be regarded as an adverse health effect on the following points:

1. 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 over a lifetime of exposure. The pervasive biological involvement of lead in the body, and its demonstrated impairment of biological functions are a strong impetus to the Agency in adopting the lowest threshold biological effect which can be considered adverse to health.

4. The Center for Disease Control has also used EP elevation as an indicator of undue lead exposure, although their guidelinees published in 1975 are ori-

ented to establishing an individual threshold for risk (30 μg 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 could take the position that EP elevation, 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 CNS deficits. EPA would welcome 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 level of the standard.

DETERMINING A SAFE BLOOD LEAD LEVEL FOR PROTECTION OF THE SENSITIVE POPULATION

The third key area for judgment in the development of the proposed standard involves the determination of the mean population blood lead level for children at which EP elevation does not occur. EPA is proposing that this standard for lead be based on the judgment that the mean population blood lead for children not exceed 15 μg 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 μg Pb/dl can be regarded as an indicator of a safe level of total lead exposure for children.

There are two reasons why the use of a blood lead target as an intermediate goal between air quality and EP levels is necessary. First, most of the scientific literature covered by the Criteria Document reports studies which link air lead with blood lead levels. Second, EP levels can be expected to respond to all sources of lead exposure; blood lead level serves as an indicator of total exposure.

In selecting 15 μg Pb/dl mean population blood lead as a target, EPA wishes to stress that it is proposing a statistical measure of population exposure. EPA is not suggesting that individual blood lead levels in excess of 15 μg Pb/dl necessarily constitute a significant risk to health. It can be expected that a population with a mean blood lead level of 15 μg Pb/dl will have individuals with higher and lower blood lead levels. There will also be a variation of EP levels for individuals with a given blood lead level. It is also true that the absence of statistical correlation of EP levels with blood lead levels below 15 μg Pb/dl does not necessarily mean that these lower blood lead levels are known to be without risk. However, the threshold of 15 μg Pb/dl does represent a point below which the sentitive population as a group has not been seen to show an elevation in EP due to lead and above which EP elevation has been demonstrated to rise with increasing implications for health. While other thresholds for EP elevation have been found (Sassa, 1973), EPA is using the lowest level cited in the Criteria Document in order to establish a margin of safety.

Alternatively, EPA could attempt to judge the actual level of EP elevation which represents an adverse effect on health, and then apply an adjustment for margin of safety. For example, in 1975, the Center for Disease Control established as a guideline for undue or increased lead absorption in children a blood lead level of 30 μg Pb/dl or EP levels of 60 μg/dl. The level of 30 μg Pb/dl in the blood represents some degree of health risk, but it is difficult to know whether any intermediate levels between 30 μg Pb/dl and 15 μg Pb/dl safeguard the public health.

EPA believes that elevations in individual blood levels and corresponding changes in EP levels are reversible, and may not in a single cycle constitute a serious physiological impairment. However, taken as a population average, underlying an environmental standard describing the safe limits for 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 the log 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, it is possible 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 15μg Pb/dl would place 99.5% of a population of children below the Center for Disease Control guidelines of 30 μg 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 associated with 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 just above the threshold 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 as an intermediary between air lead exposure and EP levels is to combine two probability distributions, one known and one unknown, between population blood values 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 correction may 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 where considerable margin of safety results from selection of the target blood lead level at which slight EP elevation is first detected, rather than a level at which lead has had a substantial impact on EP levels.

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 exposures 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 in 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 μg 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 INCREMENT FROM AIR

The fifth 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 the pollutant 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. For example, studies in areas with minimal air lead levels still show significant levels of lead in the blood (Johnson, Tillery 1975). A study of children in Boston correlates blood lead levels with lead levels in water supplies (Worth, in press).

Other studies demonstrate a strong relationship of blood lead level with air lead. Clinical studies on adult volunteers in chamber studies demonstrate changes of blood lead with changes of the concentration of lead in the air (Griffin, et al., 1975). Epidemiological studies show a general pattern of urban-rural difference where blood lead levels are higher in urban settings where air lead levels are also higher. Other epidemiological studies directly correlate air lead with blood lead. These include studies using personal dosimeters to accurately gauge lead exposure (AZAR, 1975), and the extensive population studies conducted in the community around the smelter complex at Kellogg, Idaho (Yankel and von Lindern, 1977).

IMPLICATIONS OF MULTIPLE SOURCES OF LEAD IN SETTING AN AIR STANDARD

The implications of multiple sources of environmental lead 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 of these non-air sources. 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 blood lead level, even a zero ambient air quality standard would not prevent EP elevation in children.

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 contribution from air and the resulting 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 low and underprotective in areas where it is high. EPA does not believe, however, that it is given the latitude to set area specific air quality standards under Section 109. EPA has, therefore, undertaken to make a single judgment as to what contribution to population blood 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 what EPA believes is 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 contribution to mean population blood lead levels is described in the next section.

BASIS FOR EPA'S ESTIMATE OF CONTRIBUTION TO BLOOD LEAD LEVELS FROM NON-AIR SOURCES

The level of the standard is very strongly influenced by judgments made regarding the size of non-air contribution to total 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. Estimates can only be made by inference 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 not 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.

Studies reviewed by the Criteria Document show that mean blood lead levels for children are frequently above 15 μg Pb/dl. In studies reported, the range of 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 greater than 25 μg Pb/dl (Fine, 1972; Landrigan, 1975; 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 level.

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/dl to 0.9 μg/Pb, (Billick, 1977). Studies at Omaha, Nebraska (Angle, 1977) and Kellogg, Idaho (Yankel, von Lindern, 1977) also show a drop in mean blood lead levels with declines in air lead levels. However, as air lead levels decline there appears to be a rough limit to the drop in blood lead levels. EPA has also examined epdemiological studies in the Criteria Document where air lead exposure is low, and can be assumed to be a minor contributor to blood lead. 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

Investigator	Blood lead (in micrograms of lead per deciliter)	Air lead (in micrograms of lead per cubic meter)	Comment
Hammer, 1972	11.6	0.1	Children in Helena, Mont.
Angle, 1974	14.4	0.14	Suburban children ages 1 to 4 in Omaha.
Goldsmith, 1974	13.7	0.2–0.7	Children in Benecia, Calif.
	13.8	0.3–0.6	Children in Crocket, Calif.
Johnson, Tillery, 1975.	10.2	0.6	Female children—mean age 9 in Lancaster, Calif.

The range of mean blood lead levels in those studies is from 10.2 μg Pb/dl to 14.4 μg Pb/dl, with an average at 12.7 μg Pb/dl.

In addition to epidemiological investigations, EPA has reviewed studies that examine the source of blood lead by detecting characteristic lead isotopes. A study using isotopic tracing (Manton, 1977) suggests that for several adults in Houston, Texas, 7 to 41 percent of blood lead could be attributed to air lead sources. An earlier isotopic study (Rabinowitz, 1974) concluded that for two adult male subjects studied, approximately one-third of total daily intake of lead could be attributed to exposure to air lead levels of 1–2 μg Pb/m^3. While these results cannot be directly related to children, it is reasonable to assume that children may exhibit the same or higher percentages of air lead contribution to blood lead level because of a greater potential for exposure to indirect air sources, soil and dust.

From reviewing these areas of evidence, EPA concludes that:

1. In studies showing mean blood lead levels above 15 μg Pb/dl, it is probable that both air and non-air sources of lead contribute significantly to blood lead with

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 limit in the range of 10.2 to 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. 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 population blood lead levels, either 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 lowetst 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 alternative ways in which 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:

1. Sensitive population: children, ages 1–5.
2. Health basis (lowest detectable adverse effect): elevation of erythrocyte protoporphyrin (*EP*).
3. Effect threshold in sensitive population: 15μg Pb/dl.
4. Assumer goal for contribution to blood lead from non-air sources: 12μg Pb/dl.
5. Allowable contribution to blood lead from air sources: 15μg Pb/dl–12μg *Pb/dl*=3μg Pb/dl.
6. Air lead concentration consistent with blood lead contribution from air sources:

$$3\ \mu g\ Pb/dl \times 1\ \mu g/m^3\ air = 1.5\ \mu g\ Pb/m^3$$
$$2\ \mu g/dl\ blood$$

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 cosld result in adverse effects do not occur unless the standard is exceeded. The averaging period is the length of time over which measured concentrations of air lead 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. Margin of 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 DUSTFALL 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 mouthing behavior between the ages of one and five have led to the conclusion that greater potential may exist in these children for 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 childrens' blood lead levels in highly contaminated environments (Yankel and von Lindern, 1977; Barltrop, 1974; Galke, in press). The lead threshold for concern has been reported as 1,000 ppm in soil (Yankel and von Lindern, 1977); at exposures of 500 and 1,000 ppm soil the Document concludes that blood 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, rain-out, other meteorological factors, topographical features affecting deposition, and removal mechanisms.

EPA believes, however, that significant impacts on blood lead of soil and dust lead are mainly limited to areas of 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 in areas with air lead levels in the range of the proposed standard are well below the threshold for blood lead impact (Johnson, Tillery, 1975; Johanson, 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 on 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-available 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-

cipated adverse effects on public welfare. A more restrictive secondary standard will not be established at this time.

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 led 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 led emissions, i.e., those emissions escaping from process steps, other than emission from smoke stacks. 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.

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 and limited lead to 0.05 milligrams per liter (mg/1) 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/1. 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 on 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 toxicity of lead which 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 through which 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 leadfree 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 to airborne lead to protect public health. Other EPA actions which result in the reduction of airborne lead levels include ambient standards and State implementation plans for other pollutants such as 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 μg Pb/m^3, 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 μg Pb/dl, providing an adequate margin of safety. The level of 100 μg Pb/m^3 is anticipated to limit blood lead levels in workers to a mean 40 μg Pb/dl and a maximum of 60 μg Pb/dl. OSHA is presently reviewing the latest information on lead exposure 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 (1) prohibition of use of lead-based paints on structures constructed or rehabilitated through Federal funding and on all HUD-associated housing; (2) notification of purchasers of HUD-associated housing constructed prior to 1950 that such dwellings may contain lead-based paint; and (3) 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 more than 0.06 percent 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 0.06 percent lead. These regulations are based on CPSC's conclusion 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 40 μg Pb/dl. FDA also has a proposed action level of 7 μg/ml for leachable lead in pottery and enamelware, although the exact contribution of such exposure to total human dietary intake has not been established.

The Center for Disease Control concluded in 1975 that undue or increased lead absorption exists when a child has confirmed blood lead levels 30–70 μg Pb/dl or an EP elevation of 60–189 μg 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 μg Pb/m^3, 30-day average, which is based on limiting the portion of blood lead that is air derived to 5 percent if individual values are held to 30 μg Pb/dl or less. California concludes that this standard is consistent with restricting mean blood lead levels to less than 15 μg Pb/dl. Pennsylvania based their standard of 5.0 μg Pb/m^3, 30-day average on the health effects of absorbed lead and concluded that 50 μg/day of lead can be safely absorbed from the air. Assuming a daily respiration volume of 20 m^3 and a 50 percent absorption rate, a maximum of 5 μg/m^3 is allowed in the air. Montana's standard of 5.0 μg Pb/m^3, 30-day average, was adopted as a goal based on Pennsylvania's experience. Oregon has a standard of 3.0 μg Pb/m^3, 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 as elemental lead in ambient air. The method is based on measuring the lead content of suspended particulate matter on glass fiber filters using high volume sampling. The lead is then 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 evaluation using samples or airborne particulates collected at a number of locations. In addition, four other

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 methodological studies will 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 aqua 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 voltametry. 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 arguments are solicited on the level of the standard, and conclusions, assumptions, and calculations used by EPA in selecting that level. Comments should be submitted in duplicate to: Mr. Joseph Padgett, Strategies and Air Standards Division, MD–12, Research Triangle Park, N.C. 27711.

Dated: December 8, 1977.

DOUGLAS COSTLE,
Administrator.

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.

The national ambient air quality standards for lead and its compounds measured as elemental lead by a reference method based on Appendix G to this part, or by an equivalent method, are: 1.5 micrograms per cubic meter—monthly arithmetic mean.

(Sections 109 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7409, 7601(a)).)

REFERENCES

Angle, C. R. and M. S. McIntire. Environmental controls and the decline of blood lead. Arch. Environ. H1th. (In press.) 1977.

Angle, C. R. and M. S. McIntire. Lead in Air, Dustfall, Soil, Housedust, Milk and Water: Correlation with Blood Lead of Urban and Suburban School Children. In: Trace Substances in Environmental Health-VIII Proceedings of the 8th Annual Conference on Trace Substances in Environmental Health. Columbia. June 11, 1974.

Azar, A., R. D. Snee, and K. Habibi. An Epidemiologic Approach to Community Air Lead Exposure Using Personal Air Samplers. Environmental Quality and Safety, Supplement Vol II—Lead 254–288 (1975).

Billick, I, A. Curran, and D. Shier. Presentation to the U.S. EPA Lead Subcommittee of the Science Advisory Board, Washington, D.C., October 7, 1977.

Fine, P. R., C. W. Thomas, R. H. Suho, R. E. Cohnberg, and B. A Flashner Pediatric Blood Lead Levels A Study in 14 Illinois Cities of Intermediate Population. JAMA *221*:1475–1479, Sept. 25, 1972.

Goldsmith, J. R. Food chain and health implications of airborne lead. U.S. Department of Commerce. NTTS PB–248745, 1974.

Griffen, T. B., F. Coulsten, H. Wills, J. C. Russell, and J. H. Knelson. Clinical studies on men continuously exposed to airborne particulate lead Environ. Qual. Suf., Suppl. *2*:221–240, 1975.

Hammer, D. S. et al. Trace Metals in Human Hair as a Simple Epidemiological Monitor of Environmental Exposure. In: Trace Substances in Environmental Health. Hemphill, D. D. (ed) Columbia, Univ. of Missouri Press. 1973. p. 25–38

Johnson, D. E., J. B. Tillery, and R. J. Prevost. Levels of platinum, palladium and lead in populations of Southern California. Environ. Health Persp. *12*:27–33, 1975.

Landrigan, P. J., S. H. Gehlbach, B. F. Rosenblum, J. M. Shoults, et al. Epidemic Lead Absorption Near an Ore Smelter. The role of particulate lead. New England J. Med. 292:123–129, 1975.

Manton, W. I. Sources of Lead in Blood. Arch. Environmental Health, *32*:149–156, 1977.

Piomelli, S., C. Seaman, D. Zullow, A. Curran, and B. Davidow. Metabolic evidence of lead toxicity in "normal" urban children. Clin. Res. *25*:495A, 1977.

Rabinowitz, M. B. Lead contamination of the biosphere by human activity. A stable isotope study. PhD Thesis, University of California, Los Angeles, 1974, 120 pp.

Roels, H., J. P. Buchel, R. Lauwerys, G. Hubermont, P. Bruaux, F. Claeys-Thoreau, A. La Fontaine, and J. Van Overschelde. Impact of air pollution by lead on the heme biosynthetic pathway in school-age children. Arch. Environ. Health, *31*:310–316, 1976.

Sassa, S., L. J. Granick, S. Granick, A Kappas, and R. D. Levere. Studies in lead poisoning. I. Microanalysis or erythrocyte protoporphyrin levels by spectrofluorometry in the detection of chronic lead intoxication in the sub-clinical range. Biochem. Med. *8*:135–148, 1973.

von Lindern, I. and A. J. Yankel. Presentation to the Shoshone Heavy Metals Project Committee by Idaho Department of Health and Welfare, Boise, Idaho, Sept. 4, 1975.

Worth, D., et al. Lead in drinking water, a public health problem with a solution. J. Amer. Public Health Ass. In press.

Yankel, A. J. and I. von Lindern. The Silver Valley lead study. The relationship of childhood lead poisoning and environmental exposure. J. Air Pollut. Cont. Ass., August, 1977.

APPENDIX G—REFERENCE METHOD FOR THE DETERMINATION OF LEAD IN SUSPENDED PARTICULATE MATTER COLLECTED FROM AMBIENT AIR

1. *Principle and Applicability.*

1.1 Ambient air suspended particulate matter is collected on a glass-fiber filter for 24 hours using a high volume air sampler.

1.2 Lead in the particulate matter is solubilized by extraction with nitric acid (HNO_3), facilitated by heat or ultrasonication.

1.3 The lead content of the sample is analyzed by atomic absorption spectrometry using an air-acetylene flame, the 283.3 or 217.0 nm lead absorption line, and the optimum instrumental conditions recommended by the manufacturer.

2. *Range, Sensitivity and Lower Detectable Limit.*

The values given below are typical of the methods capabilities. Absolute values will vary for 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 0.03 to 7.5 μg Pb/m^3 assuming an upper linear range of analysis of 15 μg/ml and an air volume of 2400 m^3.

2.2 Analytical sensitivity. Typical sensitivities for a 1% change in absorption (0.0044 absorbance units) are 0.2 and 0.5 μg Pb/ml for the 217.0 and 283.3 nm lines, respectively.

2.3 Lower Detectable Limit (LDL). A typical LDL is 0.03 μg Pb/m^3. This LDL is for the 217 nm line. The LDL for the 283.3 nm line will be somewhat higher. The above value was calculated by doubling the between laboratory standard deviation obtained for the lowest measurable lead concentration in a collaborative test of the method.[15] An air volume of 2400 m^3 was assumed.

3. *Interferences.*

Two types of interferences are possible: chemical, and light scattering.

3.1 Chemical. Reports on the absence [1,2,3,4,5] of chemical interferences far outweigh those reporting their presence,[6] 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 and corrected for by carrying out the analysis using the method of standard additions.[7]

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 low lead concentrations.[3] The interference is greater at the 217.0 nm line than at the 283.3 nm line. No interference was observed using the 283.3 nm line with a similar method.[1]

Light scattering interferences can, however, be corrected for instrumentally. Since the dissolved solids can vary depending on the origin of the sample, the correction may be necessary, especially when using the 217.0 nm line. Dual beam instruments with a continuum source give the most accurate correction. A less accurate correction can be obtained by using a non-absorbing lead line that is near the lead analytical line. Information on use of these correction techniques can be obtained from instrument manufacturers manuals.

If instrumental correction is not feasible, the interference can be eliminated by use of the ammonium pyrrolidinecarbodithioate-methylisobutyl ketone, chelation-solvent extraction technique of sample preparation.[8]

4. *Precision and Bias.*

4.1 The high-volume sampling procedure used to collect ambient air particulate matter has a between laboratory relative standard deviation of 3.7% over the range 80 to 125 μg/m^3.[9] The following equations give the precision of lead measurements made on ¾" x 8" strips cut from exposed glass fiber filters using the hot extraction procedure.[15]

$x = 1.73 + 0.01c$
$y = 4.82 + 0.03c$

where:

x = within laboratory standard deviation, μg Pb/strip
y = between laboratory standard deviation, μg Pb/strip

c = measured lead concentration, μg Pb/strip

Similar information is being obtained for the ultrasonic extraction procedure.

4.2 Single laboratory experiments indicate that there is no significant difference in lead recovery between the hot and ultrasonic extraction procedures.[16]

5. *Apparatus.*

5.1 Sampling.

5.1.1 High volume sampler. Use and calibrate the sampler as described in reference 10.

5.2 Analysis.

5.2.1 Atomic Absorption Spectrophotometer. Equipped with lead hollow cathode or electrodeless discharge lamp.

5.2.1 Acetylene. The grade recommended by the instrument manufacturer should be used. Change cylinder when pressure drops below 50–100 psig.

5.2.1.2 Air. Filtered to remove particulate, oil and water.

5.2.2 Glassware. Class A borosilicate glassware should be used throughout the analysis.

5.2.2.1 Beakers. 30 and 150 ml, graduated, Pyrex.

5.2.2.2 Volumetric flasks. 100-ml.

5.2.2.3 Pipettes. To deliver 50, 30, 15, 8, 4, 2, 1 ml.

5.2.2.4 Cleaning. All glassware should be scrupulously cleaned. The following procedure is suggested. Wash with laboratory detergent, rinse, soak for 4 hours in 20% (w/w) HNO_3, rinse 3 times with distilled-deionized water, and dry in a dust free manner.

5.2.3 Hot plate.

5.2.4 Ultrasonication water bath, unheated. Commercially available laboratory ultrasonic cleaning baths of 450 watts or higher "cleaning power", i.e., actual ultrasonic power output to the bath have been found satisfactory.

5.2.5 Template. To aid in sectioning the glass-fiber filter. See Figure 1 for dimensions.

5.2.6 Pizza cutter. Thin wheel. Thickness <1 mm.

5.2.7 Watch glass.

5.2.8 Polyethylene bottles. For storage of samples. Linear polyethylene gives better storage stability than other polyethylenes and is preferred.

5.2.9 Parafilm "M".[1] American Can Co., Marathon Products, Nennah, Wis., or equivalent.

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. These 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 μg/filter.

It is important that the variation in lead content from filter to filter, within a given batch, be small.

6.1.1.2 Testing.

6.1.1.2.1 For large batches of filters (>500 filters) select at random 20 to 30 filters from a given batch. For small batches (<500 filters) a lesser number of filters may be taken. Cut one ¾" x 8" strip from each filter anywhere in the filter. Analyze all strips, separately, according to the directions in Sections 7 and 8.

[1] Mention of commercial products does not imply endorsement by the Environmental Protection Agency.

6.1.1.2.2 Calculate the total lead in each filter as

$$F_b = \mu g\ Pb/ml \times \frac{100\ ml}{strip} \times \frac{12\ strips}{filter}$$

where:

F_b = Amount of lead per 72 in² of filter, micrograms.

6.1.1.2.3 Calculate the mean, $\overline{F}_b$, of the values and the relative standard deviation (standard deviation/mean × 100). If the relative standard deviation is high enough so that, in the analysts opinion, subtraction of $\overline{F}_b$ (Section 10.3), may result in a significant error in the μg Pb/m³, the batch should be rejected.

6.1.1.2.4 For acceptable batches, use the value of $\overline{F}_b$ to correct all lead analyses (Section 10.3) of particulate matter collected using that batch of filters. If the analyses are below the LDL (Section 2.3) no correction is necessary.

6.2 Analysis.

6.2.1 Concentrated (15.6 *M*) HNO_3. ACS reagent grade HNO_3 and commercially available redistilled HNO_3 has been found to have sufficiently low lead concentrations.

6.2.2 Distilled-deionized water. (D.I. water).

6.2.3 3 *M* HNO_3. Add 182 ml of concentrated HNO_3 to D.I. water in a 1 l 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.

6.2.4 0.45 *M* HNO_3 Add 29 ml of concentrated HNO_3 to D.I. water in a 1 l volumetric flask. Shake well, cool, and dilute to volume with D.I. water.

6.2.5 Lead Nitrate, $Pb(NO_3)_2$. ACS reagent grade, purity 99.0 percent. Heat for 4 hours at 120°C and cool in a desiccator.

6.3 Calibration standard.

6.3.1 Master standard, 1000 μg Pb/ml. Dissolve 1.598 g of $Pb(NO_3)_2$ in 0.45 *M* HNO_3 contained in a 1 l volumetric flask and dilute to volume with 0.45 *M* HNO_3. Store in a polyethylene bottle. Commercially available certified lead standard solutions may also be used.

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 ¾"×8" strip from the exposed filter using a template and a pizza cutter as described in Figures 1 and 2. Other cutting procedures may be used.

Lead in ambient particulate matter collected on glass fiber filters has been shown to be uniformly distributed across the filter [1,2,11] suggesting that the position of the strip is unimportant. However, other studies [12,17] have shown that when sampling near a road-way lead is not uniformly distributed across the filter. Therefore, when sampling near a road way, additional strips at different positions within the filter should be analyzed.

7.2.1.2 Fold the strip in half twice and place in a 150-ml beaker. Add 15 ml of 3 *M* HNO_3 to cover the sample. The acid should completely cover the sample. Cover the beaker with a watch glass.

7.2.1.3 Pleace beaker on the hot-plate, contained in a fume hood, and boil gently for 30 min. Do not let the sample evaporate to dryness. Caution: Nitric Acid Fumes Are Toxic.

7.2.1.4 Remove beaker from the hot plate and cool to near room temperature.

7.2.1.5 Quantiatively transfer the sample as follows:

7.2.1.5.1 Rinse watch glass and sides of beaker with D.I. water.

7.2.1.5.2 Decent extract and rinsings into a 100-ml volumetric flask.

7.2.1.5.3 Add D.I. water to 40 ml mark on beaker, cover with watch glass, and set aside for a minimum of 30 minutes. This is a critical step and cannot be omitted since it allows the HNO_3 trapped in the filter to diffuse into the rince water.

7.2.1.5.4 Decent the water from the filter into the volumetric flask.

7.2.1.5.5 Rinse filter and beaker twice with D.I. water and add rinsings to volumetric flask until total volume is 80 to 85 ml.

7.2.1.5.6 Stopper flask and shake vigorously. Set aside for approximately 5 minutes or until foam has dissipated.

7.2.1.5.7 Bring solution to volume with D.I. water. Mix thoroughly.

7.2.1.5.8 Allow solution to settle for one hour before proceeding with analysis.

7.2.1.5.9 If sample is to be stored for subsequent analysis, transfer to a linear polyethylene bottle.

7.2.2 Ultrasonic Extraction Procedure.

7.2.2.1 Cut a ¾"×8" strip, fold and place in a beaker as described in Sections 7.2.1.1 and 7.2.1.2 except that a 30-ml beaker covered with Parafilm is used instead of a 150-ml beaker covered with a watch glass. The Parafilm should be placed over the beaker such that none of the Parafilm is in contact with water in the ultrasonic bath. Otherwise, rinsing of the Parafilm (Section 7.2.2.3.1) may contaminate the sample.

7.2.2.2 Place the beaker in the ultrasonication bath and operate for 30 minutes.

7.2.2.3 Quantitatively transfer the sample as follows:

7.2.2.3.1 Rinse Parafilm and sides of beaker with D.I. water.

7.2.2.3.2 Decant extract and rinsings into a 100-ml volumetric flask.

7.2.2.3.3 Add 20 ml D.I. water to cover the filter strip, cover with parafilm, and set aside for a minimum of 30 minutes. This is a critical step and cannot be omitted. The sample is then processed as in Sections 7.2.1.5.4 through 7.2.1.5.9.

NOTE.—Samples prepared by either procedure are now in 0.45 *M* HNO_3.

8. *Analysis.*

8.1 Set the wavelength of the monochromator at 283.3 or 217.0 mm. 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 μg Pb/ml, from the calibration curve, Section 9.3.

8.5 Samples that exceed the linear calibration range should be diluted with HNO_3 of the same concentration as the calibration standards and reanalyzed.

9. *Calibration.*

9.1 Working standard, 20 μg Pb/ml. Prepare by diluting 2.0 ml of Master standard (6.3.1) to 100 ml with 0.45 *M* HNO_3. Prepare daily.

9.2 Calibration standards. Prepare daily by diluting the working standard with 0.45 *M* HNO_3 as indicated below. Other concentrations may be used.

Volume of 20 μg/ml working standard, milliliter	Final volume, milliliter	Concentration in micrograms of lead per milliliter
0	100	0.0
1.0	200	.1
2.0	200	.2
2.0	100	.4
4.0	100	.8
8.0	100	1.6
15.0	100	3.0
30.0	100	6.0
50.0	100	10.0
100	100	20.0

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 8.0. Repeat until good agreement is obtained between replicates. Plot absorbance (y-axis) versus concentration in μg 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, remeasure—alternately—one of the following calibration standards for every 10th sample analyzed: concentration $\leq$ 1 μg Pb/ml; concentration $\leq$ 10 μg Pb/ml. If either standard deviates by more than 5% from the value predicted by the calibration curve, recalibrate and repeat the previous 10 analyses.

10. *Calculation.*

10.1 Measured air volume. Calculate the measured air volume as

$$V_m = \frac{Q_i + Q_f}{2} \times T$$

where:

V_m = Air volume sampled (uncorrected), m^3.
Q_i = Initial air flow rate, m^3/min.
Q_f = Final air flow rate, m^3/min.
T = Sampling Time, min.

The flow rates Q_i and Q_f 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, sm^3.

$$V_{STP} = V_m \times \frac{P_2 \times T_1}{P_1 \times T_2}.$$

V_{STP} = Sample volume, sm^3, at 760 mm Hg and 298° K.
V_m = Measured volume from 10.1.
P_2 = Atmospheric pressure at time of orifice calibration, mm Hg.
P_1 = 760 mm Hg.
T_2 = Atmospheric temperature at time of orifice calibration, °K.
T_1 = 298 °K.

10.3 Lead Concentration. Calculate lead concentration in the air sample.

$$C = \frac{(\mu g\ Pb/ml \times 100\ ml/strip \times 12\ strips/filter) - \bar{F}_b}{V_{STP}}$$

where:

C = Concentration, μg Pb/sm^3.
μg Pb/ml = Lead concentration determined from Section 8.
100 ml/strip = Total sample volume.

$$12\ strips/filter = \frac{\text{Useable filter area, } 7'' \times 9''}{\text{Exposed area of one strip, } 3/4'' \times 7''}$$

$\bar{F}_b$ = Lead concentration of blank filter, μg, from Section 6.1.1.2.3.
V_{STP} = Air volume from 10.2.

11. *Quality Control.*

¾" x 8" glass fiber strips containing 80 to 2,000 μg 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 practices established for assuring the quality of air pollution data,[13] 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—formed on 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.

13. *References.*

1. Scott, D. R. et al. Atomic Absorption and Optical Emission Analysis of NASN Atmospheric Particulate Samples for Lead. Envir. Sci. and Tech., 10, 877–880 (1976).

2. Skogerboe, R. K. et al. Monitoring for Lead in the Environment. pp. 57–66, Department of Chemistry, Colorado State University, Fort Collins, Colo. 80523. Submitted to National Science Foundation for publication, 1976.

3. Zdrojewski, A. et al. The Accurate Measurement of Lead in Airborne Particulates. Inter. J. Environ. Anal. Chem., 2, 63–77 (1972).

4. Slavin, W. Atomic Absorption Spectroscopy. Published by Academic Press, New York, N.Y. (1968).

5. Kirkbright, G. F., and Sargent, M. Atomic Absorption and Fluorescence Spectroscopy. Published by Academic Press, New York, N.Y. 1974.

6. Burnham, C. D. et al. Determination of Lead in Airborne Particulates in Chicago and Cook County, Ill. by Atomic Absorption Spectroscopy. Envir. Sci. and Tech., 3, 472–475 (1969).

7. Proposed Recommended Practices for Atomic Absorption Spectrometry. ASTM Book of Standards, Part 30, pp. 1596–1608 (July 1973).

8. Koirttyohann, S. R., and Wen, J. W. Critical Study of the APCD–MIBK Extraction System for Atomic Absorption. Anal. Chem. 45, 1986–1989 (1973).

9. Collaborative Study of Reference Method for the Determination of Suspended Particulates in the Atmosphere (High Volume Metehod). Obtainable from National Technical Information Service, Department of Commerce, Port Royal Road, Springfield, Va. 22151, as PB–205–891.

10. Reference Method for the Determination of Suspended Particulates in the Atmosphere (High Volume Method). Code of Federal Regulations, Title 40, Part 50, Appendix B, pp. 12–16 (July 1, 1975).

11. Dubois, L., et al. The Metal Content of Urban Air. JAPCA, 16, 77–78 (1966).
12. EPA Report No. 600/4–77–034, June 1977. Los Angeles Catalyst Study Symposium. Page 223.
13. Quality Assurance Handbook for Air Pollution Measurement Systems. Volume 1—Principles. EPA–600/9–76–005, March 1976.
14. Thompson, R. J. et al. Analysis of Selected Elements in Atmospheric Particulate Matter by Atomic Absorption. Atomic Absorption Newsletter, 9, No. 3, May–June 1970.
15. To be published. EPA, QAB, EMSL, RTP, N.C. 27711
16. To be published. EPA, QAB, EMSL, RTP, N.C. 27711
17. Hirschler, D. A. et al. Particulate Lead Compounds in Automobile Exhaust Gas. Industrial and Engineering Chemistry, 49, 1131–1142 (1957).

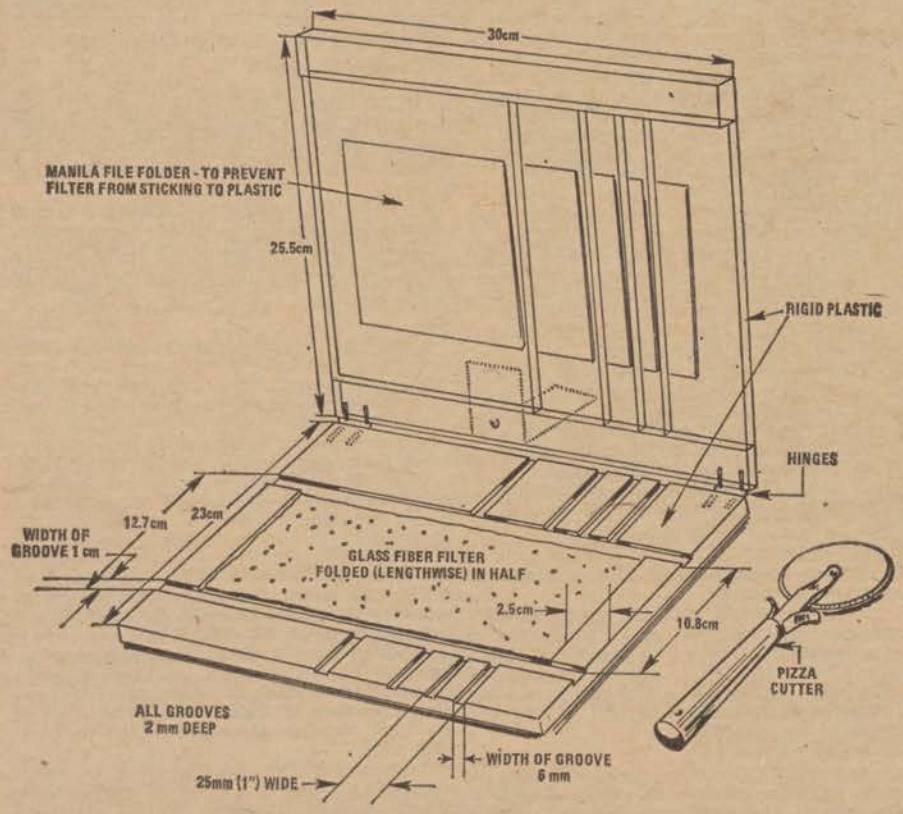

Figure 1

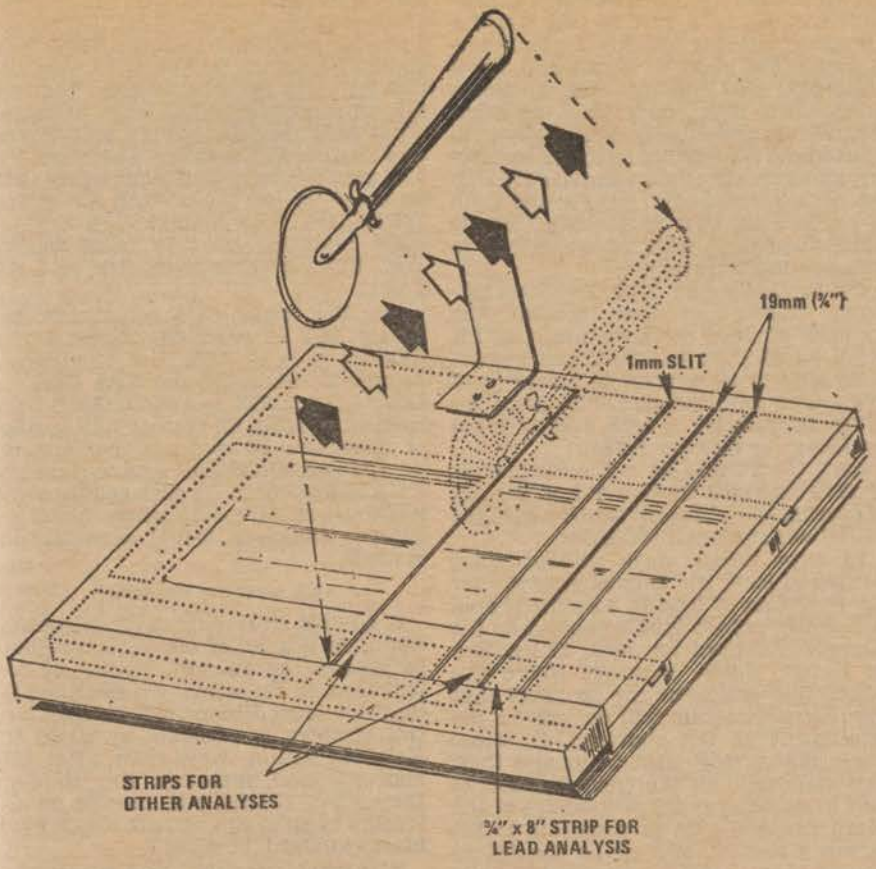

Figure 2

[FR Doc.77-35557 Filed 12-13-77;8:45 am]

[6560-01]

[40 CFR Part 51]

[FRL 821-5]

IMPLEMENTATION PLANS FOR LEAD NATIONAL AMBIENT AIR QUALITY STANDARD

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The regulations proposed below, together with the current requirements of 40 CFR Part 51, set forth the requirements for States to follow in developing, adopting and submitting acceptable implementation plans for the Lead national ambient air quality standards (NAAQS) proposed elsewhere in this FEDERAL REGISTER. The implementation plans are required under section 110 of the Clean Air Act.

Amendments to the existing regulations for implementation plans are necessary because lead differs from other pollutants for which the existing regulations 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, 401 M Street SW., Room 2922, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. John Silvasi, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Control Programs Development Division (MD 15), Research Triangle Park, N.C. 27711, telephone: Commercial—919-541-5437; FTS—629-5437.

SUPPLEMENTARY INFORMATION:

1. STATUTORY REQUIREMENTS

1.1 STATUTORY REQUIREMENTS AND SCHEDULE FOR ACTION

Under section 110 of the Clean Air Act, States must adopt and submit plans to EPA wtihin nine months after the promulgation of a primary or secondary national ambient air quality standard. On the present schedule, EPA will promulgate the lead standard in June 1978. States must therefore submit their SIPs by March 1979. EPA must approve or disapprove the plan within four months after the date required for submission of the plan. If a State fails to submit a plan that complies with section 110, EPA must promulgate a plan for that State within six months after the date required for submission of the plan.

1.2 REQUIREMENTS FOR CONTENT OF THE PLAN

Section 110 of the Clean Air Act requires that a SIP provide for the attainment of primary ambient air quality standards within three years after the date on which EPA approves (or promulgates) the plan, and maintenance thereafter. EPA can grant an extension of the attainment date of up to two years under certain conditions. In addition, EPA cannot approve a plan unless it contains a number of other provisions; these are detailed in section 110 of the act.

It is important to note that the Act requires a plan for each criteria pollutant (i.e., one that the Administrator designates under section 108 and for which he establishes criteria and a standard under section 109 of the Clean Air Act). Therefore, the plan for lead will be a separate plan, not a revision to an existing plan. Many portions of the existing plans, however, such as those portions covering legal authority, compliance schedules and source surveillance, 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

Clean Air Act, as amended, were published November 25, 1971 (36 FR 22369), 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 incorporate 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 new requirements that may affect lead implementation plans will cover the following topics:

Transportation-related provisions.
Accounting for stack heights.
Prevention of significant deterioration.
Permit requirements.
Indirect source review.
Interstate pollution abatement.
Consultation with governmental entities at the local and Federal level.
Permit fees.
Composition of State air pollution boards.
Provisions for public notification of dangers 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 draft appears in § 4.3 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." [1]

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)(4)(C) 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 plan implements." Lead in the form of tetramethyl lead or tetraethyl lead is widely used as an additive to gasolines to increase octane rating.

On September 28, 1976, EPA promulgated regulations that control the amount of lead in gasolines (41 FR 42675 as 40 CFR 80.20). These regulations require oil refiners to meet a lead in gasoline concentration of 0.8 gram per gallon by January 1, 1978, and 0.5 gram per gallon by October 1, 1979.

Also, the Clean Air Act Amendments of 1977 amended Section 211 of the Act to provide less stringent lead-in-gasoline limitations for small refineries.

In most urban areas without point sources of lead, the federal program for the reduction of lead in gasoline should sufficiently reduce lead emissions to the national standard for lead. There may be a few places, however, where the automobile emissions are so great that the federal program will not ensure the attainment of the standard. In those cases, States may wish to impose their own standards on the concentration of lead in gasoline under Section 211 of the Clean Air Act. EPA is proposing to list this as a possible measure in the definition of control strategy under § 51.1(n).

3.2 PRIORITY CLASSIFICATION SYSTEM

Section 51.3 currently defines a system for placing each air quality control region (AQCR) into priority classes based on the magnitude of its air pollution problem for several pollutants. This section will not apply to lead, since this proposal sets forth another means of setting priorities in the development of the control strategy.

3.3 REPORTING REQUIREMENTS

The requirements for quarterly air quality reporting specified in § 51.7(a) will apply to lead as well as the other criteria pollutants.

EPA plans to modify the requirements of § 51.7 for periodic emission reporting in 1978 and will address the reporting of lead emissions at that time. The following discussion outlines EPA's current thinking on this topic.

Currently § 51.7(b) requires that changes to the emission inventory be submitted in accordance with the requirements of the National Emission Data System (NEDS).[2] Data from many point sources of lead are already in the NEDS system because the lead sources are also sources of particular matter.

To minimize lead emission data collection and reporting requirements, EPA will use existing NEDS data together with emission factors from EPA's Hazardous and Trace Emissions System (HATREMS) [3] to calculate and store lead emissions data. The data from NEDS will be adequate to calculate emissions for most lead sources; HATREMS will also have the capability to store additional data for other sources that are not currently in NEDS (such as tetraethyl lead manufacturing) and to add new sources as necessary. Therefore, the lead emission reporting requirements will be based on the use of both NEDS and HATREMS. The regulation would require reporting on only point sources (i.e., those greater than five tons per year).

For the initial data submission, the States will be required (under a new Subpart E to 40 CFR Part 51 proposed below) to submit to the EPA Regional Office: (1) NEDS and HATREMS point source forms for all sources emitting five or more tons of lead per year and (2) an updated NEDS area source form and a HATREMS form for each county which must report. This submission should ensure a complete initial emission inventory.

3.4 CONTROL STRATEGY

A control strategy in an implementation plan is a set of measures developed to change the amount, timing, or distribution of emissions. An implementation plan must demonstrate that the control strategy is adequate to attain the standard within three years after EPA approval and maintain the standard thereafter. (States can receive an extension of up to two years to attain a primary standard, however.)

The regulations that EPA is proposing below pertaining to lead control strategies would appear as a separate new Subpart E.

3.4.1 *Requirements for Air Quality Maintenance 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 of 9.4 percent for 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).[3]

The stationary fuel combustion sources emit only minor quantities of lead.

Mobile sources, particularly automobiles, emit significant 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 concerning growth in emissions. 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 will 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 assist 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."[4] Where the State desires more accurate emission data from a particular source, the State should measure the lead emissions directly. EPA's recommended technique for measuring lead emissions appears in Appendix A of "Supplementary Guidelines for Lead Implementation Plan."[1]

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 program for the phase-down of lead in gasoline. EPA's "Supplementary Guidelines for Lead Implementation Plans"[1] 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."[5]

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 would be restricted to those urbanized areas whose lead air concentrations exceeded 4.0 $\mu g/m^3$, monthly mean, measured since January 1, 1974. EPA derived this criterion from an analysis of the effects of three 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 Energy Policy and Conservation Act of 1975. EPA's analysis indicated that the effects of these programs are such that any area with 1976 lead concentrations that are caused predominantly by mobile sources and that are not in excess of 5.5 μ/m^3, monthly mean, will attain a standard of 1.5 $\mu g/m^3$ maximum monthly mean, by 1982, assuming no other changes in emissions. EPA's analysis appears as Appendix D to EPA's "Supplementary Guidelines for Lead Implementation Plans."[1] The criterion of 4.0 $\mu g/m^3$ incorporates a safety factor applied to the results of the analysis. EPA estimates that about seven urbanized areas would be covered under this criterion. Table 3 presents the list of these seven areas.

In the SIP analysis, the State would use a screening technique in the form of a modified rollback model[6] to determine when the federal programs for the reduction of lead in gasoline, for the use of no-lead gasoline in catalyst equipped cars, 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 statutory attainment dates, 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 following point sources of lead regardless of measured air quality concentrations in their vicinities: primary lead smelters, secondary lead smelters, primary copper smelters, lead gasoline additive plants, lead-acid storage 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 a dispersion model to estimate the 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 national standard, the State would have to analyze the problem using modified rollback.

In so doing, the State would investigate sources of lead emissions other than ones 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 strategies. 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 as modeling mobile and non-major 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 gray iron foundries as one such source category, but this identification is based on limited data concerning the amount of fugitive emissions from the facilities. EPA does not feel that the degree of confidence in this identification justifies a requirement for States to analyze all gray iron foundries, of which over 1,000 exist. And because fugitive emissions may vary from facility to facility depending on factors other than production rate, it is difficult to arrive at a cutoff below which no such foundry need be analyzed. The State would, however, have to analyze those foundries located in areas that have measured lead concentrations in excess of the proposed standard. Because of the potential problems from foundries and other sources not covered by that approach, States are encouraged to consider analysis of these sources to the extent that time and resources permit.

For stationary sources whose particulate matter emissions are not normally well controlled and for stationary sources that generate a substantial amount of large particles, a State may wish to account for deposition or atmospheric fallout of large particles. States may use the methods found in Chapter 5 of "Meteorology and Atomic Energy 1968." The pertinent pages of that document are found in Appendix C of the "Supplementary Guidelines for Lead Implementation Plans."[1]

3.5 PREVENTION OF AIR POLLUTION EMERGENCY EPISODES

Because there is no evidence that exposure to short-term (hourly) peak lead levels in the ambient air could cause adverse health effects in any segment of the general population at levels that are ever likely to be experienced, an "emergency episode" for lead will remain undefined unless contradictory evidence is uncovered. For this reason, EPA does not intend to require States to adopt specific procedures to prevent emergency episodes as part of their lead implementation plans.

3.6 LEAD AIR MONITORING REQUIREMENTS

EPA is currently 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—those for which 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 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 predominately from mobile sources. EPA estimates that emissions from this category account for approximately 90 percent of total 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, compared to the number required for particulate matter, are needed in the major urban areas across the country on a permanent basis to develop an air quality trend data base.

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 $\mu g/m^3$, 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 in 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 Standing Air Monitoring Work Group (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 sampling every year but over a 6 month time interval during the year. Each of these schemes would allow a State to use one monitor for at least two locations. If violations of NAAQS are found, permanent sites could 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 considered State and Local 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 composites 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"[1] would 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 criteria of EPA's "Supplementary Guidelines for Lead Implementation Plans."[1]

3.6.2 *Point Source Monitoring.* The regulations would not require ambient monitoring around a lead source to determine whether the lead NAAQS is being achieved, but EPA encourages States to perform such monitoring, especially if the lead emissions are fugitive. A State may require point source owners and operators to monitor in the vicinity of their sources.

EPA also encourages States to monitor in locations where people with high blood lead levels work, reside, or play.

3.6.3 *Other Monitoring.* The proposed regulations would also provide for EPA to require monitors in areas outside the areas described in § 3.6.1, above.

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 handled in a forthcoming separate action concerning new source review.

In the FEDERAL REGISTER of December 21, 1976 (41 FR 55558), 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 and modified lead sources. 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 review of the source for conformance 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 would 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 signif-

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 vaporous 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 only to lead from regulations that apply to other criteria pollutants.

4. ADDITIONAL GUIDANCE

4.1 SUPPLEMENTARY GUIDELINES

EPA has prepared a draft guideline, "Supplementary Guidelines for Lead Implementation Plans,"[1] that will cover aspects of the SIP development process not covered in the revisions to the SIP requirements. The items covered in the guideline are—

air quality data reporting details,
emissions data reporting details,
determining and accounting for background concentrations,
projecting automotive lead emissions,
new source review techniques,
methods for stack testing,
determination of lead point source definition, and
a discussion of deposition of particles and gases.

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,"[4] also 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 statutory and mobile sources and their costs,
Lead emission factors,
Effect of TSP controls on lead missions, and
Particle size distribution of lead emissions from most 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.

Ms. Ruth Seidman, Librarian, EPA, Region I, John F. Kennedy Federal Building, Room 2302, Boston, Mass. 02203.
Mr. H. Luger, Librarian, EPA, Region II, Federal Office Building, 26 Federal Plaza, New York, N.Y. 10007.
Ms. Wiley, Librarian, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106.
Ms. Barbara Fields, Air and Hazardous Materials Division, EPA, Region IV, 345 Courtland, 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, 1201 Elm Street, Dallas, Tex. 75201.
Ms. Connie McKenzie, Librarian, EPA, Region VII, 1735 Baltimore Avenue, Kansas City, Mo. 64108.
Ms. Dianne Grah, Librarian, EPA, Region VIII, 1860 Lincoln Street, Denver, Colo. 80203.
Ms. Jean Circiello, Librarian, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.
Ms. Arvella 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, SW.
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: 919-541-5204

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 natural eco-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 section 4.3, above.

2. AEROS Users Manual, Vol. II, U.S. Environmental Protection Agency, Office of Air and Waste Management, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711. EPA 450/2-76-029 (OAQPS No. 1.2-039). December 1976.

3. Lead Industry in May 1976. Mineral Industry Surveys. U.S. Department of Interior, Bureau of Mines. Washington, D.C. August 5, 1976.

4. Control Techniques for Lead Air Emissions. U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. November 1977.

5. Guidelines for Air Quality Maintenance Planning and Analysis, Volume 7: Projecting County Emission. Second Edition. EPA 450/4-74-008. U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. January 1975.

6. deNevers, N.H., and J. R. Morris. Rollback Modeling—Basic and Modified. Reprint 73-139. Presented at the Air Pollution Control Association Annual Meeting, Chicago, Ill. June 1973.

TABLE I.—*Urbanized areas*[1] *greater than 500,000 population (1970 census*[2]*)*

AQCR No.:	*Area*
043	New York, N.Y.-Northeastern New Jersey
024	Los Angeles-Long Beach, Calif.
067	Chicago, Ill.-Northwestern Indiana
045	Philadelphia, Pa.-N.J.
123	Detroit, Mich.
030	San Francisco-Oakland, Calif.
119	Boston, Mass.
047	Washington, D.C.-Md.-Va.
174	Cleveland, Ohio
070	St. Louis, Mo.-Ill.
197	Pittsburgh, Pa.
131	Minneapolis-St. Paul, Minn.
216	Houston, Texas
115	Baltimore, Md.
215	Dallas, Texas
239	Milwaukee, Wis.

[1] As defined in U.S. Bureau of the Census, "1970 Census Users' Guide;" U.S. Government Printing Office, Washington, D.C., 1970 (p. 82).

[2] U.S. Bureau of Census, "U.S. Census of Population: 1970; Number of Inhabitants; Final Report PC(1)-A1; United States Summary. U.S. Government Printing Office, Washington, D.C., 1971.

AQCR No.:	Area
229	Seattle-Everett, Wash.
050	Miami, Fla.
029	San Diego, Calif.
056	Atlanta, Ga.
079	Cincinnati, Ohio-Ky.
094	Kansas City, Mo.
162	Buffalo, N.Y.
036	Denver, Colo.
030	San Jose, Calif.
106	New Orleans, La.
015	Phoenix, Ariz.
193	Portland, Ore.-Wash.
080	Indianapolis, Ind.
120	Providence-Pawtucket-Warwick, R.I.-Mass.
176	Columbus, Ohio
217	San Antonio, Texas
078	Louisville, Ky.-Ind.
178	Dayton, Ohio
215	Fort Worth, Texas
223	Norfolk-Portsmouth, Va.
018	Memphis, Tenn.-Miss.
028	Sacramento, Calif.
050	Ft. Lauderdale-Hollywood, Fla.
160	Rochester, N.Y.
033	San Bernardino-Riverside, Calif.
184	Oklahoma City, Okla.
004	Birmingham, Ala.
174	Akron, Ohio
049	Jacksonville, Fla.
042	Springfield - Chicopee - Holyoke, Mass.-Conn.

TABLE 2. *Urbanized areas with lead air concentrations exceeding or equal to 1.5 μg/m³, maximum monthly mean (1975)*

004	Birmingham, Ala.
003	Gadsden, Ala.
007	Huntsville, Ala.
005	Mobile, Ala.
005	Jackson, Miss.
002	Montgomery, Ala.
009	Fairbanks, Alaska
015	Phoenix, Ariz.
015	Tucson, Ariz.
031	Fresno, Calif.
024	Los Angeles, Calif.
028	Sacramento, Calif.
033	San Bernardino, Calif.
029	San Diego, Calif.
030	San Francisco, Calif.
030	San Jose, Calif.
036	Denver, Colo.
043	Bridgeport, Conn.
043	Paterson, N.J.
043	New York City, N.Y.
042	New Haven, Conn.
042	Waterbury, Conn.
042	Springfield, Mass.
045	Wilmington, Del.
045	Trenton, N.J.
045	Philadelphia, Pa.
047	Washington, D.C.
049	Jacksonville, Fla.
052	Tampa-St. Petersburg, Fla.
067	Chicago, Ill.
067	Gary, Ind.
065	Peoria, Ill.
076	Muncie, Ind.
069	Davenport, Iowa
092	Des Moines, Iowa
103	Huntington, Ky.
102	Lexington, Ky.
078	Louisville, Ky.
120	Providence, R.I.
123	Detroit, Mich.
122	Grand Rapids, Mich.
131	Minneapolis, Minn.
094	Kansas City, Mo.
070	St. Louis, Mo.
085	Omaha, Nebr.
013	Las Vegas, Nev.
148	Reno, Nev.
158	Utica, N.Y.
167	Charlotte, N.C.
166	Durham, N.C.
165	Winston-Salem, N.C.
176	Columbus, Ohio
184	Oklahoma City, Okla.
193	Portland, Oreg.
151	Allentown, Pa.
151	Scranton, Pa.
196	Lancaster, Pa.
244	San Juan, P.R.
200	Columbia, S.C.
202	Greenville, S.C.
055	Chattanooga, Tenn.
207	Knoxville, Tenn.
018	Memphis, Tenn.
214	Corpus Christi, Tex.
215	Dallas, Tex.
153	El Paso, Tex.
216	Houston, Tex.
222	Lynchburg, Va.
233	Norfolk, Va.
229	Seattle, Wash.
234	Charleston, W. Va.

SOURCE: Data from EPA's Environmental Monitoring Support Laboratory, Statistical and Technical Analysis Branch.

TABLE 3.—*Urbanized areas with lead air concentrations equal to or exceeding 4.0μg/m³, maximum monthly mean (1975)*

ACQR No.:	Area
15	Phoenix, Ariz.
24	Los Angeles, Calif.
29	San Diego, Calif.
67	Chicago, Ill.
115	Baltimore, Md.
197	Pittsburgh, Pa.
218	San Antonio, Tex.

SOURCE: Data from EPA's Environmental Monitoring Support Laboratory, Statistical and Technical Analysis Branch.

Dated: December 8, 1977.

DOUGLAS COSTLE,
Administrator.

It is proposed to amend 40 CFR Part 51 as follows:

1. In § 51.1, paragraph (k) is revised and paragraph (n) is amended by adding subdivision (11) as follows:

§ 51.1 Definitions.

* * * * *

(k) "Point source" means the following:

(1) For particulate matter, sulfur oxides, carbon monoxide, hydrocarbons, and nitrogen dioxide—

(i) 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, as defined by the U.S. Bureau of the Census, was equal to or greater than one million;

(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 less than one million; or

(iii) Without regard to amount of emissions, stationary sources such as those listed in Appendix C to this part.

(2) For lead, any stationary source causing emissions in excess of 4.54 metric tons (five tons) per year.

* * * * *

(n) * * *

(11) Control or prohibition of a fuel or fuel additive used in motor vehicles.

* * * * *

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 500,000; or

(2) Where lead air quality levels currently exceed or have exceeded 1.5 μg/m³ monthly arithmetic mean measured since January 1, 1974.

(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 roadway type monitoring site and at least one 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

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 Plans".

(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

Sec.
51.80 Demonstration of attainment.
51.81 Emissions data.
51.82 Air quality data.
51.83 Certain urbanized areas.
51.84 Areas around significant point sources.
51.85 Other areas.
51.86 Data bases.
51.87 Measures.
51.88 Data availability.

AUTHORITY: Secs. 110 and 301(a), Clean Air Act amended (42 U.S.C. 7410, 7601).

Subpart E—Control Strategy: Lead

§ 51.80 Demonstration of attainment.

(a) Each plan must contain a demonstration that the standard will be attained and maintained in the following areas:

(1) Areas in the vicinty 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 storage 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 tabuler 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) at least three years 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; or

(3) any other longer period if required by the Administrator.

(c) The plan must contain a description of the method used to project emissions.

(d) 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 $\mu g/m^3$, 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 pan 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 plans.
(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:

(1) 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 (SAROAD).

§ 51.87 Measures.

The lead control strategy must include the following:

(a) 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 availabiilty.

(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.77-35556 Filed 12-13-77;8:45 am]

federal register

WEDNESDAY, DECEMBER 14, 1977

PART VI

DEPARTMENT OF THE TREASURY

Monetary Offices

■

TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY

Form Revisions

[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 replaced by new forms (copies of which are attached) which will greatly increase the usefulness of the reported data by providing several significant data breakdowns which are not now available. The new forms will also reduce the reporting burden on banks 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.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary A. Lee, Manager, Treasury International Capital Reporting System, Office of Statistical Reports, Department of the Treasury, Room 905, Global Building, Washington, D.C. 20220, 202–376–0692.

PRIMARY AUTHOR: Mr. John G. Murphy, Jr., Attorney/Advisor, Office of the General Counsel, Department of the Treasury, Room 2014, Main Treasury Building, Pennsylvania Avenue at 15th Street NW., Washington, D.C. 20220, 202–566–8184.

SUPPLEMENTARY INFORMATION: The principal features of the new Treasury banking forms are:

1. Separation of the liabilities and claims of the reporting banks themselves from their custody liabilities to foreigners and from 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: 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: 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(A): 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 responsible 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 BL–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 office 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 accpetable to the Federal Reserve Bank of the district in which the report is filed, and must be approved in wirting by that bank.

17. Section 128.30 is amended to read as follows:

§ 128.30 Copies.

Copies 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.

* * * * *

(Sec. 5, Pub. L. 65–91, 40 Stat. 415, 12 U.S.C. 95a, 50 U.S.C. App. 5 as amended; Sec. 8, Pub. L. 79–171, 59 Stat. 515, 22 U.S.C. 286f; Sec. 4, Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3103; E.O. 6560, Jan. 15, 1934; E.O. 10033, 14 FR 561, 3 CFR, 1949—1953 Comp.; E.O. 11961, January 9, 1977, 42 FR 4321, as amended.)

Dated: December 2, 1977.

BEATRICE N. VACCARA,
Acting Assistant Secretary for Economic Policy.

INTERNATIONAL CAPITAL FORMS

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

[Forms Approved: OMB Nos.: 048–R0539, 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 report forms filed by banks (Forms BL–1, BL–2, BC, BQ–1, BQ–2, Alternate Forms BL–1(A), BL–2(A), BQ–1(A) and BQ–2(A), and Supplements to Forms BL–1, BL–2 and BC) are resigned 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 to meet the needs of the U.S. Government for the formulation of international monetary and financial policies and for the balance of payments of the United States.

The reports are required by law (12 U.S.C. 95a; 22 U.S.C. 286F; 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 a like fine, imprisonment, or both (12 U.S.C. 95a; 31 CFR 128.4(a)).

Data reported on these forms 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 (including bank holding companies) in the United States, including the 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 forms.

All brokers and dealers who borrow from "foreigners" through the sale of securities to "foreigners" under repurchase agreements or who have custody liabilities to "foreigners" are required to report their liabilities to "foreigners" resulting from such agreements (Form BL–1) and their custody liabilities to "foreigners" (Form BL–2), unless the amounts fall below the exemption level specified on the forms.

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 th Edge Act or Agreement subsidiary is located.

Reports of any bank holding company should include 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.

Reports by brokers and dealers 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, 33 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 Wake Island.

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.

NOTE.—U.S. nationals with overseas U.S. Government mailing addresses (U.S. Embassies and Consulates, and APO and FPO addresses) are considered to be U.S. persons for purposes of these reports.

(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 allied organization within a foreign country of a partnership, association, corporation or other organization created or organized under the laws of a foreign country or of the United States. Thus, for example, branches of American banks (including your own branches) located in foreign countries should be considered as "foreigners" and the branches, subsidiaries, and agencies located in the United States of foreign banks should consider their head offices and branches of such head offices outside the United States as "foreigners."

(d) Any government of a foreign country and any subdivision, agency or instrumentality thereof, including all "foreign official institutions," even though located in the United States. (See definition in subsection 4 below.)

(e) Any official international or regional organization, or subordinate or affiliated agency thereof, created by treaty or convention between sovereign states, even though located in the United States; and any private relief, philanthropic or other organization of an international or regional character with headquarters abroad and with a membership of organizations from more than one country.

(f) Persons in the United States (with the exception of persons required to report on this and other Treasury International Capital Forms) to the extent that they are acting on behalf of, for the account of, or for the benefit of "foreigners" as described in (a) through (e) above. Thus, for example, liabilities arising from balances known to be held by persons in the United States for the benefit of "foreigners" should be included in this report as if such liabilities were directly due to the "foreigners" for whom they are held. (In case of doubt in a particular case as to whether a second institution is required to report on this or other Treasury International Capital Forms, consult the Federal Reserve Bank of the district in which you are located.)

4. "Foreign official institution." For purposes of these reports, the term "foreign official institution" shall include central governments of foreign countries and of their possessions and recognized central banks of issue. More specifically, the term shall include the following:

(a) The treasuries, including ministries of finance, or corresponding departments of national governments; central banks, including all departments thereof; stabilization funds, including official exchange control offices, or other governmental exchange authorities; and fiscal agents of the national governments which have as an important part of their functions, activities similar to those of a treasury, central bank or stabilization fund. Exception: Branches or agencies in the United States of "foreign official banking institutions" shall be considered "domestic" institutions for purposes of these reports.

(b) Diplomatic and consular establishments and other departments and agencies of national governments.

(c) Any international or regional organization, or subordinate or affiliated agency thereof, created by treaty or convention between sovereign states.

The term "foreign official institution," however, shall not include the following:

(a) Nationalized or other government-owned banks or corporations. (Nationalized or other government-owned banks should be regarded as "foreign banks," and nationalized or other government-owned corporations should be included in the category "all other foreigners," unless such banks or corporations otherwise fall within one of the descriptive categories set forth in subsection 4(a) above;

(b) Personal accounts of foreign diplomatic and other official representatives of foreign countries. (Such accounts are to be reported under "all other foreigners.")

5. "Foreign public borrower." For the purposes of reporting claims on foreigners, the term "foreign public borrower" shall mean central governments and departments of central governments of foreign countries and of their possessions; foreign central banks, stabilization funds, and exchange authorities; corporations and other agencies of central governments, including development banks, development institutions, and other agencies which are majority-owned by the central government or its departments; State, provincial and local governments of foreign countries and their departments and agencies; and any international or regional organization or subordinate or affiliated agency thereof, created by treaty or convention between sovereign states.

6. "Foreign bank." For purposes of these reports, the term "foreign bank" shall include commercial banks, savings banks, discount houses and other similar "foreign" institutions accepting deposits, which are not included under "foreign official institutions." Nationalized and other banking institutions owned by central governments should be regarded as "foreign banks" unless such banks otherwise fall within one of the descriptive categories set forth in subsection 4(a) above.

7. "Own foreign offices." For purposes of these reports, the term "own foreign offices" shall mean:

(a) *For U.S. banks.* Their foreign branches and their significant majority-owned foreign subsidiaries, *i.e.*, all foreign subsidiaries which are consolidated in the "Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries)" filed with the bank regulatory agencies;

(b) *For agencies, branches and majority-owned subsidiaries of foreign banks.* Their "directly related" foreign institutions, *i.e.* (1) their head office or parent(s), (2) a foreign institution of which their 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.

8. "Bank's own liabilities." For purposes of these reports, the term "bank's own liabilities" shall mean demand, time and savings deposits, and other liabilities of the reporting bank payable in dollars to "foreigners," excluding capital account items.

9. "Custody liabilities." For puroposes of these reports, the term "custody liabilities" shall mean financial claims on persons in the United States, other than long-term securities, held by or through the reporting institution payable in dollars for the account of "foreigners."

10. "Bank's own claims." For purposes of these reports, the term "bank's own claims" shall mean assets owned by reporting banks and banking institutions (including bank holding companies) which represent claims on "foreigners."

11. "Claims of domestic customers." For purposes of these reports, the term "claims of domestic customers" shall mean assets owned by customers of the reporting bank located in the United States (including correspondent banks in the United States) which represent claims on "foreigners" held here or abroad by the reporting bank for

the account of its domestic customers.

12. "'Long-term' securities." "Long-term" securities are defined as those having no 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 the U.S. Treasury, of U.S. Government corporations and Federally-sponsored 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 OPPOSITE 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 nonmetropolitan 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 if the branches are not themselves acting as "official institutions" for the countries in which they are located. For example, a deposit held for 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. (Exception: Branches and agencies in the United States of "foreign official banking institutions" shall be considered "domestic" institutions.) Liabilities to, and claims on, a "foreign official institution's" branch which is acting as an "official institution" for the country in which it (the branch) is located, should be reported opposite that country, while liabilities to, and claims on, its head office in another country should be reported opposite the country in which such head office is located.

Liabilities to, and claims on, foreign branches or agencies of foreign banks (excluding central banks) and other private institutions should be reported opposite the country in which the foreign branch or agency is located. For example, a deposit held for the Sydney, Australia, branch of the Comptoir National d'Escompte de Paris, S.A., should be reported opposite Australia, and not opposite France.

Liabilities to, and claims on, international and regional organizations, even though located in the United States, should be reported opposite the classification "International," "European," "Latin American," "Asian," "African," or "Middle Eastern" regional, as appropriate. The regional classifications cover organizations which have a regional center of interest. The "International" classification covers all other organizations of an international character. Exception: The Bank for International Settlements and the European Fund, for purposes of this report, should be reported opposite the classification "Other Europe."

Liabilities arising from balances known to be held by persons in the United States for the benefit of "foreigners" should be reported opposite the countries in which the foreigners reside. Similarly, claims on persons in the United States who are acting on behalf of "foreigners" should be reported opposite the countries in which the "foreigners" reside.

F. ALTENATE METHODS OF REPORTING

In lieu of reports on the printed Treasury International Capital Forms, the required data may be reported on:

(a) Computer printouts in the same format, signed by a responsible officer of the reporting institution; or

(b) 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.

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): 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.

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, 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 below.

This report is required by law (12 U.S.C. 95a; 22 U.S.C. 286f; 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 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 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 (including bank holding companies) in the United States, including the branches, agencies, subsidiaries, and other affiliates located in the United States of foreign banks and banking institutions, who for their own account have liabilities payable in dollars to "foreigners," as defined in these instructions, are required to report on this form.

All brokers and dealers who borrow from "foreigners" through the sale of securities to "foreigners" under repurchase agreements are required to report on this form their liabilities to "foreigners" resulting from such agreements.

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 liabilities payable in dollars to "foreigners" for its own account 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 having branches in the United States may apply the $2,000,000 exemption limit separately to each branch.

A bank, banking institution, broker or dealer must file a report on Form BL-1 for the first month-end on which its reportable liabilities to "foreigners" aggregate $2,000,000 or more, and must continue to report for the five succeeding months, after which the averaging provision 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 liabilities to "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 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 "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.

Reports of brokers and dealers should be filed with the Federal Reserve Bank of New York.

E. USE OF ALTERNATE SHORT FORM BL-1(A)

Reporting institutions who have liabilities to foreigners located in 20 or fewer of the countries, "Other" areas, or international and regional categories listed on Form BL-1 may at their option file the required reports on the alternate short Form BL-1(A). Banks, banking institutions, brokers or dealers who are reporting for the first time, however, must file their initial reports on Form BL-1, regardless of the number of countries, areas or categories to which they have liabilities. (See Part III for specific instructions for preparing Form BL-1(A).)

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.

G. EXCLUSIONS

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".
4. Contingent liabilities.
5. Unutilized credits from "foreigners."
6. Credit commitments from "foreigners."
7. Forward exchange contracts.

H. 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 S 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.

Trusts created in the United States by individual foreigners are not within the scope of this report. Deposit balances of such trusts are not reportable on this form.

J. TREATMENT OF OFFSETS AND "EARMARKED FUNDS"

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 demand deposit 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; nonnegotiable 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.

NOTE.—Negotiable time certificates of deposit *held in custody* for the account of "foreigners" should be reported on Form BL-2.

(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

International Capital Form BL-1

The data furnished on this report will be held in confidence.

Note: This report should be filed not later than the fifteenth day following the last day of the month.

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary
for Economic Policy

This report is required by law (12 U.S.C. 95a; 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. 3106). 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)).

FORM APPROVED
OMB No. 048-R0542

Name of Reporter

As of: _____
Date

(Actual figures in thousands of dollars as of close of last business day of month)

FOREIGN COUNTRIES (a)	Code	To "Foreign Official Institutions" (Including central banks): Demand Deposits (b) 1	Time and Savings Deposits (c) 2	Other Liabilities (d) 3	To Unaffiliated "Foreign" Banks: Demand Deposits (b) 4	Time and Savings Deposits (c) 5	Other Liabilities (d) 6	To Own Foreign Offices (a) 7	To All Other "Foreigners": Demand Deposits (b) 8	Time and Savings Deposits (c) 9	Other Liabilities (d) 10	Total-Bank's Own Liabilities to "Foreigners" 11
		MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S
EUROPE												
Austria	1018-9											
Belgium-Luxembourg	1030-8											
Bulgaria	1520-2											
Czechoslovakia	1528-8											
Denmark	1050-2											
Finland	1070-7											
France	1080-4											
German Democratic Republic	1600-4											
Germany	1100-2											
Greece	1120-7											
Hungary	1550-4											
Italy	1150-9											
Netherlands	1210-6											
Norway	1220-3											
Poland	1576-8											
Portugal	1231-9											
Rumania	1580-6											
Spain	1250-5											
Sweden	1260-2											
Switzerland	1268-8											
Turkey	1280-7											
United Kingdom	1300-5											
U.S.S.R.	1610-1											
Yugoslavia	1321-8											
Other Europe	1800-7											
TOTAL EUROPE	1999-2											
CANADA	2999-8											
LATIN AMERICA AND CARIBBEAN												
Argentina	3010-4											
Bahamas	3531-9											
Bermuda	3560-2											
British West Indies	3600-5											
Brazil	3030-9											
Chile	3040-6											
Colombia	3050-3											
Cuba	3070-8											
Ecuador	3100-3											
Guatemala	3120-8											
Jamaica	3160-7											
Mexico	3170-6											
Netherlands Antilles	3720-6											
Panama	3188-7											
Peru	3220-4											
Trinidad and Tobago	3240-9											
Uruguay	3260-3											
Venezuela	3271-9											
Other Latin America and Caribbean	3900-8											
TOTAL LATIN AMERICA AND CARIBBEAN	3999-3											

International Capital Form BL-1

MONTHLY REPORT TO FEDERAL RESERVE BANK OF
REPORTING BANK'S OWN LIABILITIES TO "FOREIGNERS"
PAYABLE IN DOLLARS

Name of Reporter

As of: Date

FOREIGN COUNTRIES (a)	Code	To "Foreign Official Institutions" (Including central banks)			To Unaffiliated "Foreign" Banks			To Own Foreign Offices	To All Other "Foreigners"			Total-Bank's Own Liabilities to "Foreigners"
		Demand Deposits (b)	Time and Savings Deposits (c)	Other Liabilities (d)	Demand Deposits (b)	Time and Savings Deposits (c)	Other Liabilities (d)		Demand Deposits (b)	Time and Savings Deposits (c)	Other Liabilities (d)	
		1	2	3	4	5	6	7	8	9	10	11
		MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S
ASIA												
Bahrain	4070-3											
China, People's Rep. of (China Mainland)	4140-8											
China, Republic of (Taiwan)	4630-2											
Hong Kong	4200-5											
India	4210-2											
Indonesia	4221-8											
Iran	4230-7											
Iraq	4240-6											
Israel	4250-1											
Japan	4260-9											
Korea	4300-1											
Kuwait	4310-9											
Lebanon	4341-9											
Malaysia	4360-5											
Oman	4410-5											
Pakistan	4470-9											
Philippines	4480-6											
Qatar	4510-1											
Saudi Arabia	4560-8											
Singapore	4601-9											
Syria	4620-5											
Thailand	4641-8											
United Arab Emirates (Trucial States)	4660-4											
Other Asia	4890-9											
TOTAL ASIA	4999-9											
AFRICA												
Algeria	5010-5											
Egypt	5700-2											
Gabon	5241-8											
Ghana	5260-4											
Liberia	5320-1											
Libya	5330-9											
Morocco	5400-3											
Nigeria	5430-5											
South Africa	5571-9											
Zaire	5170-5											
Other Africa	5890-4											
TOTAL AFRICA	5999-4											
OTHER COUNTRIES												
Australia	6008-9											
All Other	6390-8											
TOTAL OTHER COUNTRIES	6990-5											
INTERNATIONAL & REGIONAL												
International	7290-7											
European regional	7390-3											
Latin American regional	7491-8											
Asian regional	7590-6											
African regional	7690-2											
Middle Eastern regional	7790-9											
TOTAL INTERNATIONAL & REGIONAL	7999-5											
GRAND TOTAL	9999-6											

TOTAL NEGOTIABLE CERTIFICATES OF DEPOSIT ISSUED TO FOREIGNERS AND EXCLUDED FROM:

COLUMN 2 _____ COLUMN 5 _____ COLUMN 9 _____ 82001

OFFICIAL SIGNATURE

The data furnished on this report will be held in confidence.

ALTERNATE MONTHLY REPORT TO FEDERAL RESERVE BANK OF REPORTING BANK'S OWN LIABILITIES TO "FOREIGNERS" PAYABLE IN DOLLARS

International Capital Form BL-1(A)

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary for Economic Affairs

FORM APPROVED OMB No. 048-R0542

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. 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 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)).

Name of Reporter

As of: Date

(Actual figures in thousands of dollars as of close of last business day of month)

FOREIGN COUNTRIES (a) Code	To "Foreign Official Institutions" (Including central banks)			To Unaffiliated "Foreign" Banks			To Own Foreign Offices	To All Other "Foreigners"			Total-Bank's Own Liabilities to "Foreigners"
	Demand Deposits (b) 1	Time and Savings Deposits (c) 2	Other Liabilities (d) 3	Demand Deposits (b) 4	Time and Savings Deposits (c) 5	Other Liabilities (d) 6	(e) 7	Demand Deposits (b) 8	Time and Savings Deposits (c) 9	Other Liabilities (d) 10	11
	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S

International Capital Form BL-1(A)

ALTERNATE MONTHLY REPORT TO FEDERAL RESERVE BANK OF REPORTING BANK'S OWN LIABILITIES TO "FOREIGNERS" PAYABLE IN DOLLARS

Name of Reporter

As of: Date

FOREIGN COUNTRIES (a) Code	To "Foreign Official Institutions" (Including central banks)			To Unaffiliated "Foreign" Banks			To Own Foreign Offices	To All Other "Foreigners"			Total-Bank's Own Liabilities to "Foreigners"
	Demand Deposits (b) 1	Time and Savings Deposits (c) 2	Other Liabilities (d) 3	Demand Deposits (b) 4	Time and Savings Deposits (c) 5	Other Liabilities (d) 6	(e) 7	Demand Deposits (b) 8	Time and Savings Deposits (c) 9	Other Liabilities (d) 10	11
	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S	MILL'S / THOU'S
TOTAL EUROPE 1999-2											
TOTAL LATIN AMERICA AND CARIBBEAN 3999-3											
TOTAL ASIA 4999-9											
TOTAL AFRICA 5999-4											
TOTAL OTHER COUNTRIES 6990-6											
TOTAL INTERNATIONAL & REGIONAL 7999-5											
GRAND TOTAL 9999-6											

TOTAL NEGOTIABLE CERTIFICATES OF DEPOSIT ISSUED TO FOREIGNERS AND EXCLUDED FROM:

COLUMN 2 _____ COLUMN 5 _____ COLUMN 9 _____

82001

OFFICIAL SIGNATURE

INTERNATIONAL CAPITAL FORM BL–1 (SA)

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

[Form Approved: OMB NO. 048–R0542]

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

NOTE.—This form should be filed not later than one month following date of report.

PART I—GENERAL INSTRUCTIONS

A. INTRODUCTION

The purpose of this report 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. 95a; 22 U.S.C. 286f; 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 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 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.

The data furnished on this report will be held in confidence.

SEMIANNUAL REPORT TO FEDERAL RESERVE BANK OF
REPORTING BANK'S OWN LIABILITIES TO "FOREIGNERS" IN COUNTRIES NOT LISTED SEPARATELY ON FORM BL-1
PAYABLE IN DOLLARS

Note: This report should be filed no later than one month following date of report.

This report is required by law (12 U.S.C. 95a; 22 U.S.C. 286f; 22 U.S.C. 1003; 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. 1005). 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. 128.1(a)).

International Capital Form BL-1 (SA)
DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary for Economic Policy
Form Approved OMB No. 048-R0542

Name of Reporter

As of _____ Date

(Actual figures in thousands of dollars)

FOREIGN COUNTRIES * (a)	Code	To "Foreign Official Institutions" (Including central banks)			To Unaffiliated "Foreign" Banks			To Own Foreign Offices	To All Other "Foreigners"			Total-Bank's Own Liabilities to "Foreigners"
		Demand Deposits (b)	Time and Savings Deposits (c)	Other Liabilities (d)	Demand Deposits (b)	Time and Savings Deposits (c)	Other Liabilities (d)	(e)	Demand Deposits (b)	Time and Savings Deposits (c)	Other Liabilities (d)	
		1	2	3	4	5	6	7	8	9	10	11
		MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S
"OTHER EUROPE"												
Albania	15105											
Cyprus	19405											
Estonia	15407											
Gibraltar	11088											
Iceland	11304											
Ireland	11401											
Latvia	15601											
Lithuania	15709											
Malta, including Gozo	11819											
Monaco	12009											
Vatican City	13102											
Bank for International Settlements	13307											
European Fund	13404											
TOTAL "OTHER EUROPE"	18007											
"OTHER LATIN AMERICA & CARIBBEAN"												
Barbados	30155											
Belize	35718											
Bolivia	30201											
Costa Rica	30589											
Dominican Republic	30805											
El Salvador	31089											
Falkland Islands	36107											
French West Indies and French Guiana	36609											
Grenada	36706											
Guyana	31305											
Haiti	31402											
Honduras	31488											
Nicaragua	31801											
Paraguay	32107											
Surinam	32703											
TOTAL "OTHER LATIN AMERICA & CARIBBEAN"	39098											
"OTHER ASIA"												
Afghanistan	40401											
Bangladesh	40746											
Bhutan	40819											
Brunei	41009											
Burma	41108											
Cambodia	41202											
Jordan	42706											
Laos	43303											
Macao	43508											
Maldives	43702											
Mongolia	43818											
Nepal	44202											
North Korea	44407											
Sri Lanka	41319											
Vietnam	46906											
Yemen (Aden)	47082											
Yemen (Sana)	47104											
TOTAL "OTHER ASIA"	48407											
"OTHER AFRICA"												
Angola	50202											
Benin	51802											
Botswana	50504											
"British West Africa"	50709											

International Capital Form BL-1(SA)

SEMIANNUAL REPORT TO FEDERAL RESERVE BANK OF
REPORTING BANK'S OWN LIABILITIES TO "FOREIGNERS" IN COUNTRIES NOT LISTED SEPARATELY ON FORM BL-1
PAYABLE IN DOLLARS

Name of Reporter

As of: Date

FOREIGN COUNTRIES * (a)	Code	To "Foreign Official Institutions" (Including central banks)			To Unaffiliated "Foreign" Banks			To Own Foreign Offices	To All Other "Foreigners"			Total-Bank's Own Liabilities to "Foreigners"
		Demand Deposits (b)	Time and Savings Deposits (c)	Other Liabilities (d)	Demand Deposits (b)	Time and Savings Deposits (c)	Other Liabilities (d)	(e)	Demand Deposits (b)	Time and Savings Deposits (c)	Other Liabilities (d)	
		1	2	3	4	5	6	7	8	9	10	11
		MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S	MILL'S THOU'S
Burundi	50806											
Cameroon	51004											
Cape Verde	51209											
Central African Empire	51306											
Chad	51403											
Comoros	51519											
Congo (Brazzaville)	51608											
Equatorial Guinea (Fernando Po & Rio Muni)	51942											
Ethiopia, including Eritrea	52103											
F.T.A.I. (French Somaliland)	52302											
Gambia, The	52507											
Guinea	52701											
Guinea-Bissau	54402											
Ivory Coast	53007											
Kenya	53104											
Lesotho	53155											
Madagascar	53406											
Malawi	53503											
Mali	53589											
Mauritania	53708											
Mauritius	53805											
Mozambique	54089											
Niger	54208											
Réunion	54607											
Rwanda	55018											
Sao Tome & Principe	55204											
Senegal	55301											
Seychelles	55409											
Sierra Leone	55506											
Somalia	55603											
Southern Rhodesia	54704											
Spanish Sahara	56006											
Sudan	56103											
Swaziland	56219											
Tanzania	56405											
Togo	56502											
Tunisia	56707											
Uganda	56604											
Upper Volta	57118											
Zambia	57207											
TOTAL "OTHER AFRICA"	58409											
"ALL OTHER"												
Britain Oceania	60209											
Fiji	60607											
French Polynesia	60704											
Nauru	61301											
New Caledonia	61409											
New Zealand	61689											
Papua New Guinea	61751											
St Pierre and Miquelon	62219											
Tonga	62448											
U.S Trust Territory of the Pacific Islands	62502											
Western Samoa	62618											
TOTAL "ALL OTHER"	63908											
GRAND TOTAL OF THIS FORM	99996											

OFFICIAL SIGNATURE

*Country list may be altered by the Treasury as conditions require.

INTERNATIONAL CAPITAL FORM BL–2/BL–2(A)

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

[Form Approved: OMB No. 048–R0541]

INSTRUCTIONS FOR THE PREPARATION OF MONTHLY FORM BL–2 OR ALTERNATE FORM BL–2(A): 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.

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 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, insofar as data on these liabilities may be obtained from the records of reporting banks and banking institutions (including bank holding companies) and brokers and dealers. Amounts reported on this form should be on a gross basis, without deductions 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 below.

This report is required by law (12 U.S.C. 95a; 22 U.S.C. 286f; 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 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 individuals 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 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, including the branches, agencies, subsidiaries, and other affiliates located in the United States of foreign banks and banking institutions, and all brokers and dealers in the United States, who for their account or for the account of others have "custody" liabilities payable in dollars to "foreigners" as defined in these instructions, are required to report on this form.

Reporting institutions are required to report all financial claims on persons in the United States, other than "long-term" securities, which they hold for "foreigners" either in direct custody or in their own name with a custodian bank or other institution. If the reporting institution is used by "foreigners" as their U.S. address in connection with their financial transactions with persons in the United States, the reporting institution must report claims on persons in the United States which result from such transactions as if such claims were in the reporter's custody, or must inform the U.S. persons against whom the claims are held that they are owned by "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 having branches in the United States may apply the $2,000,000 exemption limit separately to each branch.

A bank, banking institution, broker or dealer must file a report on Form BL–2 for the first month-end on which its reportable custody liabilities to "foreigners" aggregate $2,000,000 or more, and must 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" 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 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 custody liabilities to "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.

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, "Other" areas, or international and regional categories 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, regardless of the number of countries, areas or categories to which they have custody liabilities. (See Part III for specific instructions for preparing Form BL–2(A).)

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 of public and private issuers 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 under repurchase agreements undertaken by you or by other banks, banking institutions, brokers or dealers in the United States. (Borrowing under such agreements is reportable as a liability on Form BL–1.)

3. Gold, silver and currency which you hold in your vaults for foreign account.

H. TREATMENT OF TRUST ACCCOUNTS 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, assets held with you by domestic trustees for the account of such trusts should be reported as custody 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. Assets held for such trusts are not reportable on this form.

Trusts created in the United States by individual foreigners are not within the scope of this report. Assets held for such trusts are not reportable on this form.

I. TREATMENT OF OFFSETS AND "EARMARKED FUNDS"

The figures reported on this form should show the *gross* of your "custody" liabilities payable in dollars to "foreigners". Accordingly, report "custody" liabilities 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 on 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 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 holdings of "short-term" United States Treasury obligations for the account of "foreigners," at face value. Do not include such obligations held for foreign account under repurchase agreements.

(c) Report the amount of negotiable and readily transferable instruments held for the account of "foreigners" which represent claims, acquired either here or abroad, on persons in the United States, except for "long-term" (original maturity of more than one year) securities—i.e., stocks and "long-term" notes, bonds and debentures of public and private issuers in the United States. Include negotiable certificates of deposit whether issued by you or by other banks in the United States; bankers' acceptances whether created by you or by other banks in the United States; commercial paper issued by financial and nonfinancial business con-

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.

The data furnished on this report will be held in confidence.

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

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary
for Economic Policy

FORM APPROVED
OMB NO. 048-R0541

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. 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 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)).

Name of Reporter

As of
Date

(Actual figures in thousands of dollars as of close of last business day of month)

FOREIGN COUNTRIES (a)	Code	To "Foreign Official Institutions" (Including central banks)			To "Foreign" Banks (Including own foreign offices)			To All Other "Foreigners"			Memorandum	Total of Columns 1-10 (for arithmetic check only)
		"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	Negotiable Certificates of Deposit Held for "Foreigners" (e)	
		1	2	3	4	5	6	7	8	9	10	11
		mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's
EUROPE												
Austria	1018-9											
Belgium-Luxembourg	1030-8											
Bulgaria	1520-2											
Czechoslovakia	1578-8											
Denmark	1050-2											
Finland	1070-7											
France	1080-4											
German Democratic Republic	1600-4											
Germany	1100-2											
Greece	1120-7											
Hungary	1550-4											
Italy	1150-9											
Netherlands	1210-6											
Norway	1220-3											
Poland	1576-8											
Portugal	1231-9											
Romania	1580-6											
Spain	1250-5											
Sweden	1260-2											
Switzerland	1268-8											
Turkey	1280-7											
United Kingdom	1300-5											
U.S.S.R.	1610-1											
Yugoslavia	1321-8											
Other Europe	1800-7											
TOTAL EUROPE	1999-2											
CANADA	2999-8											
LATIN AMERICA AND CARIBBEAN												
Argentina	3010-4											
Bahamas	3531-9											
Bermuda	3560-2											
British West Indies	3600-5											
Brazil	3030-9											
Chile	3040-6											
Colombia	3050-5											
Cuba	3070-8											
Ecuador	3100-3											
Guatemala	3120-8											
Jamaica	3160-7											
Mexico	3170-4											
Netherlands Antilles	3720-6											
Panama	3188-7											
Peru	3220-4											
Trinidad and Tobago	3240-9											
Uruguay	3260-3											
Venezuela	3271-9											
Other Latin America and Caribbean	3900-8											
TOTAL LATIN AMERICA AND CARIBBEAN	3999-3											

International Capital Form BL-2

MONTHLY REPORT TO FEDERAL RESERVE BANK OF
CUSTODY LIABILITIES OF REPORTING BANKS, BROKERS AND DEALERS
TO "FOREIGNERS" - PAYABLE IN DOLLARS

Name of Reporter

As of Date

FOREIGN COUNTRIES (a)	Code	To "Foreign Official Institutions" (Including central banks)			To "Foreign" Banks (Including own foreign offices)			To All Other "Foreigners"			Memorandum	Total of Columns 1-10 (for arithmetic check only)
		"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	Negotiable Certificates of Deposit Held for "Foreigners" (e)	
		1	2	3	4	5	6	7	8	9	10	11
		mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's
ASIA												
Bahrain	4070-3											
China, People's Rep. of (China Mainland)	4140-8											
China, Republic of (Taiwan)	4610-2											
Hong Kong	4200-5											
India	4210-2											
Indonesia	4221-8											
Iran	4230-7											
Iraq	4240-4											
Israel	4250-1											
Japan	4260-9											
Korea	4300-1											
Kuwait	4310-9											
Lebanon	4341-9											
Malaysia	4360-5											
Oman	4410-5											
Pakistan	4470-9											
Philippines	4480-6											
Qatar	4510-1											
Saudi Arabia	4560-8											
Singapore	4601-9											
Syria	4620-5											
Thailand	4641-8											
United Arab Emirates (Trucial States)	4660-4											
Other Asia	4890-9											
TOTAL ASIA	4999-9											
AFRICA												
Algeria	5010-5											
Egypt	5700-2											
Gabon	5241-8											
Ghana	5260-4											
Liberia	5320-1											
Libya	5330-9											
Morocco	5400-3											
Nigeria	5430-5											
South Africa	5571-9											
Zaire	5170-5											
Other Africa	5890-4											
TOTAL AFRICA	5999-4											
OTHER COUNTRIES												
Australia	6008-9											
All Other	6390-8											
TOTAL OTHER COUNTRIES	6990-6											
INTERNATIONAL & REGIONAL												
International	7290-7											
European regional	7390-3											
Latin American regional	7491-8											
Asian regional	7590-6											
African regional	7690-2											
Middle Eastern regional	7790-9											
TOTAL INTERNATIONAL & REGIONAL	7999-5											
GRAND TOTAL	9999-6											

OFFICIAL SIGNATURE

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

FORM APPROVED
OMB NO. 048-R0541

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. 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 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)).

Name of Reporter

(Actual figures in thousands of dollars as of close of last business day of month)

As of _____
Date

FOREIGN COUNTRIES (a) Code	To "Foreign Official Institutions" (Including central banks)			To "Foreign" Banks (Including own foreign offices)			To All Other "Foreigners"			Memorandum	Total of Columns 1-10
	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	Negotiable Certificates of Deposit Held for "Foreigners" (e)	
	1	2	3	4	5	6	7	8	9	10	11
	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's

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)

Name of Reporter

As of _____
Date

FOREIGN COUNTRIES (a) Code	To "Foreign Official Institutions" (Including central banks)			To "Foreign" Banks (Including own foreign offices)			To All Other "Foreigners"			Memorandum	Total of Columns 1-10
	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	Negotiable Certificates of Deposit Held for "Foreigners" (e)	
	1	2	3	4	5	6	7	8	9	10	11
	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's
TOTAL EUROPE	1999-2										
TOTAL LATIN AMERICA AND CARIBBEAN	3999-3										
TOTAL ASIA	4999-9										
TOTAL AFRICA	5999-4										
TOTAL OTHER COUNTRIES	6990-6										
TOTAL INTERNATIONAL & REGIONAL	7999-5										
GRAND TOTAL	9999-6										

OFFICIAL SIGNATURE

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 should 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. 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. 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 on this report will be held in confidence.

SEMIANNUAL REPORT TO FEDERAL RESERVE BANK OF
CUSTODY LIABILITIES OF REPORTING BANKS, BROKERS AND DEALERS TO "FOREIGNERS" IN COUNTRIES NOT LISTED SEPARATELY ON FORM BL-2
PAYABLE IN DOLLARS

Note: This report should be filed no later than one month following date of report.

This report is required by law (12 U.S.C. 95a; 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 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)).

International Capital Form BL-2 (SA)

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary
for Economic Policy

Form Approved
OMB No. 048-R0541

Name of Reporter

As of: _____
Date

(Actual figures in thousands of dollars)

FOREIGN COUNTRIES * (a)	Code	To "Foreign Official Institutions" (including central banks)			To "Foreign" Banks (including own foreign offices)			To All Other "Foreigners"			Memorandum	Total of Columns 1-10 (for arithmetic check only)
		"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	Negotiable Certificates of Deposit Held for "Foreigners" (c)	
		1	2	3	4	5	6	7	8	9	10	11
		mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's
"OTHER EUROPE"												
Albania	15105											
Cyprus	10405											
Estonia	15407											
Gibraltar	11038											
Iceland	11304											
Ireland	11401											
Latvia	15601											
Lithuania	15709											
Malta, including Gozo	11819											
Monaco	12009											
Vatican City	13102											
Bank for International Settlements	13307											
European Fund	13404											
TOTAL "OTHER EUROPE"	18037											
"OTHER LATIN AMERICA & CARIBBEAN"												
Barbados	30155											
Belize	35718											
Bolivia	30201											
Costa Rica	30589											
Dominican Republic	30805											
El Salvador	31089											
Falkland Islands	36307											
French West Indies and French Guiana	36609											
Grenada	36706											
Guyana	31305											
Haiti	31402											
Honduras	31488											
Nicaragua	31801											
Paraguay	32107											
Surinam	37702											
TOTAL "OTHER LATIN AMERICA & CARIBBEAN"	39008											
"OTHER ASIA"												
Afghanistan	40401											
Bangladesh	40745											
Bhutan	40819											
Brunei	41019											
Burma	41106											
Cambodia	41203											
Jordan	42708											
Laos	43303											
Macao	43508											
Maldives	43707											
Mongolia	43818											
Nepal	44202											
North Korea	44407											
Sri Lanka	41319											
Vietnam	46996											
Yemen (Aden)	47032											
Yemen (Sana)	47104											
TOTAL "OTHER ASIA"	44603											
"OTHER AFRICA"												
Angola	50202											
Benin	51502											
Botswana	50504											
"British West Africa"	50709											

International Capital Form BL-2(SA)

SEMIANNUAL REPORT TO FEDERAL RESERVE BANK OF
CUSTODY LIABILITIES OF REPORTING BANKS, BROKERS AND DEALERS TO "FOREIGNERS" IN COUNTRIES NOT LISTED SEPARATELY ON FORM BL-2
PAYABLE IN DOLLARS

As of: Date

Name of Reporter

FOREIGN COUNTRIES * (a)	Code	To "Foreign Official Institutions" (including central banks)			To "Foreign" Banks (including own foreign offices)			To All Other "Foreigners"			Memorandum	Total of Columns 1-10 (for arithmetic check only)
		"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	"Short-Term" U.S. Treasury Obligations (b)	Other Negotiable and Readily Transferable Instruments (c)	Other Custody Liabilities (d)	Negotiable Certificates of Deposit Held for "Foreigners" (e)	
		1	2	3	4	5	6	7	8	9	10	11
		mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's
Burundi	50809											
Cameroon	51005											
Cape Verde	51209											
Central African Empire	51304											
Chad	51403											
Comoros	51519											
Congo (Brazzaville)	51608											
Equatorial Guinea (Fernando Po & Rio Muni)	51943											
Ethiopia, including Eritrea	52108											
F.T.A.I. (French Somaliland)	52302											
Gambia, The	52507											
Guinea	52701											
Guinea-Bissau	54402											
Ivory Coast	53007											
Kenya	53104											
Lesotho	53133											
Madagascar	53406											
Malawi	53503											
Mali	53589											
Mauritania	53708											
Mauritius	53805											
Mozambique	54089											
Niger	54208											
Réunion	54607											
Rwanda	55018											
Sao Tome & Principe	55204											
Senegal	55301											
Seychelles	55409											
Sierra Leone	55506											
Somalia	55603											
Southern Rhodesia	54704											
Spanish Sahara	56006											
Sudan	56103											
Swaziland	56719											
Tanzania	56405											
Togo	56503											
Tunisia	56707											
Uganda	56804											
Upper Volta	57118											
Zambia	57207											
TOTAL "OTHER AFRICA"	58408											
"ALL OTHER" British Oceania	60208											
Fiji	60607											
French Polynesia	60704											
Nauru	61301											
New Caledonia	61409											
New Zealand	61689											
Papua New Guinea	61751											
St. Pierre and Miquelon	62219											
Tonga	62448											
U.S. Trust Territory of the Pacific Islands	67502											
Western Samoa	62618											
TOTAL "ALL OTHER"	63908											
GRAND TOTAL OF THIS FORM	99996											

*Country list may be altered by the Treasury as conditions require.

OFFICIAL SIGNATURE

INTERNATIONAL CAPITAL FORM BC/BC(A)

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

[Form Approved: OMB No. 048-R0540]

INSTRUCTIONS FOR THE PREPARATION OF MONTHLY FORM BC OR ALTERNATE FORM BC(A) 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.

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 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; 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. 95a; 31 C.F.R. 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 (including bank holding companies) in the United States, including the branches, agencies, subsidiaries, and other affiliates located in the United States of foreign banks and banking institutions, who on their own account have claims on "foreigners" payable in dollars, as defined in these instructions, are required to report on this form.

C. EXEMPTIONS

A report as of any one month need not be filed by a bank or banking institution if the grand total of its claims on "foreigners" payable in dollars 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 having branches in the United States may apply the $2,000,000 exemption 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 report for the five succeeding months, after which the averaging provision 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" 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 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 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 ALTERNATIVE SHORT FORM BC(A)

Reporting institutions who have claims on "foreigners" located in 20 of fewer of the countries, "Other" areas, or international and regional categories 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, however, 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. Offsets against reportable gross claims on "foreigners."
4. Contingent claims.
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. RESALE 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 I, Section F, Exclusions 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 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 reportable on Form BC as a loan to the issuing 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, a 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" the 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. For purposes of this report, deposits and other assets deposited abroad which are set aside against letters of credit; for interest payments on "foreign-held" American securities, sinking fund and bond redemption payments (whether held in trust or otherwise); or for other similar purposes should also be included in your reported figures.

K. OFFSETS, RESERVES AND WRITE-OFFS

The figures reported on this form should show the gross of the indebtedness of "foreigners" to you. Accordingly, report claims regardless of whether or not there are offsets against these 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 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 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 purchased in loans of the Export-Import Bank of Washington and of international and regional lending institutions, with or without the guaranty of the lending institutions; the liability of "foreigners" to you on acceptances made for their benefit—i.e., on drafts accepted by you payable by such "foreigners"; items in process of collection for your account; and all other dollar assets owned by you which represent claims on "foreigners."

Include advances to "foreigners" under resale agreements (but do not include securities which you have acquired 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 refinance 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 B of Form BL-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. 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 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)).

International Capital Form BC

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary
for Economic Affairs

FORM APPROVED
OMB No. 048-R0540

Name of Reporting Bank

As of: _____ Date

(Actual figures in thousands of dollars as of close of last business day of month)

FOREIGN COUNTRIES (a)	Code	On "Foreign Public Borrowers" (b) 1		On Unaffiliated "Foreign" Banks: Deposits (c) 2		On Unaffiliated "Foreign" Banks: Other Claims (b) 3		On Own Foreign Offices (d) 4		On All Other "Foreigners" (b) 5		Total Bank's Own Claims on "Foreigners" 6	
		mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's
EUROPE													
Austria	1018-9												
Belgium-Luxembourg	1030-8												
Bulgaria	1520-2												
Czechoslovakia	1328-8												
Denmark	1050-2												
Finland	1070-7												
France	1080-4												
German Democratic Republic	1600-4												
Germany	1100-2												
Greece	1120-7												
Hungary	1330-4												
Italy	1150-9												
Netherlands	1210-6												
Norway	1220-3												
Poland	1576-8												
Portugal	1231-9												
Romania	1580-6												
Spain	1250-5												
Sweden	1260-2												
Switzerland	1268-8												
Turkey	1280-7												
United Kingdom	1290-5												
U.S.S.R	1610-1												
Yugoslavia	1321-8												
Other Europe	1800-7												
TOTAL EUROPE	1999-2												
CANADA	2999-8												
LATIN AMERICA AND CARIBBEAN													
Argentina	3010-4												
Bahamas	3531-9												
Bermuda	3560-2												
British West Indies	3600-5												
Brazil	3030-9												
Chile	3040-6												
Colombia	3050-3												
Cuba	3070-8												
Ecuador	3100-3												
Guatemala	3120-8												
Jamaica	3160-7												
Mexico	3170-4												
Netherlands Antilles	3720-6												
Panama	3188-7												
Peru	3220-4												
Trinidad and Tobago	3240-9												
Uruguay	3260-3												
Venezuela	3271-9												
Other Latin America and Caribbean	3900-8												
TOTAL LATIN AMERICA AND CARIBBEAN	3999-3												

International Capital Form BC

MONTHLY REPORT TO FEDERAL RESERVE BANK OF
REPORTING BANK'S OWN CLAIMS ON "FOREIGNERS"
PAYABLE IN DOLLARS

Name of Reporting Bank

As of: Date

FOREIGN COUNTRIES (a)	Code	On "Foreign Public Borrowers" (b) 1	On Unaffiliated "Foreign" Banks: Deposits (c) 2	On Unaffiliated "Foreign" Banks: Other Claims (b) 3	On Own Foreign Offices (d) 4	On All Other "Foreigners" (b) 5	Total Bank's Own Claims on "Foreigners" 6
		mill's | thou's	mill's | thou's	mill's | thou's	mill's | thou's	mill's | thou's	mill's | thou's
ASIA							
Bahrain	4070-3						
China, People's Rep. of (China Mainland)	4140-8						
China, Republic of (Taiwan)	4630-2						
Hong Kong	4200-5						
India	4210-2						
Indonesia	4221-8						
Iran	4230-7						
Iraq	4240-6						
Israel	4250-1						
Japan	4260-9						
Korea	4300-1						
Kuwait	4310-9						
Lebanon	4341-9						
Malaysia	4360-5						
Oman	4410-5						
Pakistan	4470-9						
Philippines	4480-6						
Qatar	4510-1						
Saudi Arabia	4560-8						
Singapore	4601-9						
Syria	4620-5						
Thailand	4641-8						
United Arab Emirates (Trucial States)	4660-4						
Other Asia	4890-9						
TOTAL ASIA	4999-9						
AFRICA							
Algeria	5010-5						
Egypt	5700-2						
Gabon	5241-8						
Ghana	5260-4						
Liberia	5320-1						
Libya	5330-9						
Morocco	5400-3						
Nigeria	5430-5						
South Africa	5571-9						
Zaire	5170-5						
Other Africa	5890-4						
TOTAL AFRICA	5999-4						
OTHER COUNTRIES							
Australia	6000-9						
All Other	6390-8						
TOTAL OTHER COUNTRIES	6990-6						
INTERNATIONAL & REGIONAL							
International	7290-7						
European regional	7390-1						
Latin American regional	7491-8						
Asian regional	7590-6						
African regional	7690-2						
Middle Eastern regional	7790-9						
TOTAL INTERNATIONAL & REGIONAL	7999-5						
GRAND TOTAL	9999-6						

OFFICIAL SIGNATURE

The data furnished on this report will be held in confidence.

ALTERNATE MONTHLY REPORT TO FEDERAL RESERVE BANK OF
REPORTING BANK'S OWN CLAIMS ON "FOREIGNERS"
PAYABLE IN DOLLARS

International Capital Form BC (A)

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary
for Economic Affairs

FORM APPROVED
OMB No. 048-R054U

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. 286f; 22 U.S.C. 3103; E.O. 8560; 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)).

Name of Reporting Bank

(Actual figures in thousands of dollars)

As of: Date

FOREIGN COUNTRIES (a) Code	On "Foreign Public Borrowers" (b) 1		On Unaffiliated "Foreign" Banks				On Own Foreign Offices (d) 4		On All Other "Foreigners" (b) 5		Total Bank's Own Claims on "Foreigners" 6	
			Deposits (c) 2		Other Claims (b) 3							
	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's

ALTERNATE MONTHLY REPORT TO FEDERAL RESERVE BANK OF
REPORTING BANK'S OWN CLAIMS ON "FOREIGNERS"
PAYABLE IN DOLLARS

Name of Reporting Bank

As of: Date

FOREIGN COUNTRIES (a) Code	On "Foreign Public Borrowers" (b) 1		On Unaffiliated "Foreign" Banks				On Own Foreign Offices (d) 4		On All Other "Foreigners" (b) 5		Total Bank's Own Claims on "Foreigners" 6	
			Deposits (c) 2		Other Claims (b) 3							
	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's
TOTAL EUROPE 1999-2												
TOTAL LATIN AMERICA AND CARIBBEAN 3999-3												
TOTAL ASIA 4999-9												
TOTAL AFRICA 5999-4												
TOTAL OTHER COUNTRIES 6990-6												
TOTAL INTERNATIONAL & REGIONAL 7999-5												
GRAND TOTAL 9999-6												

INTERNATIONAL CAPITAL FORM BC(SA)

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

[Form Approved OMB No. 048-RO540]

INSTRUCTIONS FOR THE PREPARATION OF THE SEMIANNUAL FORM BC(SA): BANK'S OWN CLAIMS ON "FOREIGNERS" PAYABLE IN DOLLARS IN COUNTRIES NOT LISTED SEPARATELY ON FORM BC

NOTE.—This form should be filed not later than one month following date of 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 banks' own dollar claims on "foreigners in countries which are not listed separately on Form BC. The amounts reportable on this form represent the details by country of the amounts reportable for the same date in columns 1 through 6 of Form BC (or of alternate Form BC(A)) opposite "Other Europe," "Other Latin America and Caribbean," "Other Asia," "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. 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 than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by 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 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.

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

Note: This report should be filed no later than one month following date of report.

This report is required by law (12 U.S.C. 95a; 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 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)).

International Capital Form BC (SA)

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary
for Economic Policy

Form Approved
OMB No. 048-R0540

Name of Reporting Bank

(Actual figures in thousands of dollars)

As of: Date

FOREIGN COUNTRIES* (a)	Code	On "Foreign Public Borrowers" (b) 1		On Unaffiliated "Foreign" Banks: Deposits (c) 2		On Unaffiliated "Foreign" Banks: Other Claims (b) 3		On Own Foreign Offices (d) 4		On All Other "Foreigners" (b) 5		Total Bank's Own Claims on "Foreigners" 6	
		mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's
"OTHER EUROPE"													
Albania	15105												
Cyprus	10405												
Estonia	13407												
Gibraltar	11088												
Iceland	11304												
Ireland	11401												
Latvia	15601												
Lithuania	15709												
Malta, including Gozo	11819												
Monaco	12009												
Vatican City	13102												
Bank for International Settlements	13307												
European Fund	13404												
TOTAL "OTHER EUROPE"	18007												
"OTHER LATIN AMERICA & CARIBBEAN"													
Barbados	30155												
Belize	35718												
Bolivia	30201												
Costa Rica	30589												
Dominican Republic	30805												
El Salvador	31089												
Falkland Islands	36307												
French West Indies and French Guiana	36609												
Grenada	36706												
Guyana	31305												
Haiti	31402												
Honduras	31488												
Nicaragua	31801												
Paraguay	32107												
Surinam	37702												
TOTAL "OTHER LATIN AMERICA & CARIBBEAN"	39008												
"OTHER ASIA"													
Afghanistan	40401												
Bangladesh	40746												
Bhutan	40819												
Brunei	41009												
Burma	41106												
Cambodia	41203												
Jordan	42706												
Laos	43303												
Macao	43508												
Maldives	43702												
Mongolia	43818												
Nepal	44202												
North Korea	44407												
Sri Lanka	41319												
Vietnam	46406												
Yemen (Aden)	47082												
Yemen (Sana)	47104												
TOTAL "OTHER ASIA"	48402												
"OTHER AFRICA"													
Angola	50202												
Benin	51802												
Botswana	50504												
"British West Africa"	50709												

International Capital Form BC(SA)

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

As of: Date

FOREIGN COUNTRIES * (a)	Code	On "Foreign Public Borrowers" (b) 1		On Unaffiliated "Foreign" Banks: Deposits (c) 2		On Unaffiliated "Foreign" Banks: Other Claims (b) 3		On Own Foreign Offices (d) 4		On All Other "Foreigners" (b) 5		Total Bank's Own Claims on "Foreigners" 6	
		mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's
Burundi	50806												
Cameroon	51004												
Cape Verde	51209												
Central African Empire	51306												
Chad	51403												
Comoros	51519												
Congo (Brazzaville)	51608												
Equatorial Guinea (Fernando Po & Rio Muni)	51942												
Ethiopia, including Eritrea	52108												
F.T.A.I. (French Somaliland)	52302												
Gambia, The	52507												
Guinea	52701												
Guinea-Bissau	54402												
Ivory Coast	53007												
Kenya	53104												
Lesotho	53155												
Madagascar	53406												
Malawi	53503												
Mali	53589												
Mauritania	53708												
Mauritius	53805												
Mozambique	54089												
Niger	54208												
Réunion	54607												
Rwanda	55018												
Sao Tome & Principe	55204												
Senegal	55301												
Seychelles	55409												
Sierra Leone	55506												
Somalia	55603												
Southern Rhodesia	54704												
Spanish Sahara	56006												
Sudan	56103												
Swaziland	56219												
Tanzania	56405												
Togo	56502												
Tunisia	56707												
Uganda	56804												
Upper Volta	57118												
Zambia	57207												
TOTAL "OTHER AFRICA"	58408												
"ALL OTHER"													
British Oceania	60208												
Fiji	60607												
French Polynesia	60704												
Nauru	61301												
New Caledonia	61409												
New Zealand	61689												
Papua New Guinea	61751												
St. Pierre and Miquelon	62219												
Tonga	62448												
U.S. Trust Territory of the Pacific Islands	62502												
Western Samoa	62618												
TOTAL "ALL OTHER"	63908												
GRAND TOTAL OF THIS FORM	99996												

*Country list may be altered by the Treasury as conditions require.

OFFICIAL SIGNATURE

INTERNATIONAL CAPITAL FORM BQ-1/BQ-1(A)

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

[Form Approved: OMB No. 048-R0543]

INSTRUCTIONS FOR THE PREPARATION OF QUARTERLY FORM BQ-1 OR ALTERNATE FORM BQ-1(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 capital movements.

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 reporting banks and banking institutions. Amounts reported on this form should be on 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 Preparations 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; 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 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 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 (including bank holding companies) in the United States, including the branches, agencies, subsidiaries, and other affiliates located in the United States of foreign banks and banking institutions, who have claims on "foreigners" payable in dollars 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 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 to which the report applies.

Reports of any bank or banking institution should include the reportable 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 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 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-1(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-1(A) for the same quarter-end. (See Part III for specific instructions for preparing Form BQ-1(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 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. Offsets against reportable gross claims on "foreigners."
4. Contingent claims.
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 or for the account of your domestic customers.
8. Forwarded exchange contracts.

H. FUNDS 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 will 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.

I. TREATMENT OF "EARMARKED 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. For purposes of this report, deposits and other assets deposited abroad which are set aside against letters of credit; for interest payments on "foreign-held" securities issued in the United States, sinking fund and bond redemption payments (whether held in trust or otherwise); or for other similar purposes should also be included in your reported figures.

J. OFFSETS, RESERVES AND WRITE-OFFS

The figures reported on this form should show the gross of the indebtedness of "foreigners" to 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 FORMS BQ-1 and BQ-1(A) (See references on report form to instructions (a) through (f) 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 in these columns the breakdown by time remaining to maturity of the claims on unaffiliated "foreigners" reported on Forms BC or BC(A). Revolving credits should be classified by the maturity date which is available to the borrower at his option. The maturity distribution should be reported on a cash flow basis if feasible, otherwise according to final maturity.

(c) Report in this memorandum column the liability of foreigners to you on acceptances made by you for their benefit, i.e., on drafts accepted by you payable by such foreigners—other than those you have acquired through purchase or discount. Do not report 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.

(d) Report the amount of dollar deposits and certificates of deposit which you hold for the account of your domestic customers.

(e) Report the amount of negotiable and readily marketable instruments payable in dollars representing claims on foreigners which you hold for the account of your domestic customers, including negotiable certificates of deposit, bankers' acceptances, commercial paper issued by foreign financial and nonfinancial business concerns, and obligations of foreign governments.

(f) Report the amount of collections outstanding held for the account of your domestic customers and all other dollar assets held here or abroad for the account of your domestic customers.

PART III—SPECIFIC INSTRUCTIONS FOR PREPARING REPORTS ON ALTERNATE SHORT FORM BQ-1(A)

A. Claims which are reportable opposite not more than twenty country, "Other" area, or international and regional category lines listed on Form BQ-1 (*e.g.*, France, Canada, Other Asia, or Latin American Regional) may be reported on Form BQ-1(A) in alphabetical order.

B. The numerical code which appears on Form BQ-1 after the name of each country, "Other" area, and international and regional category must be shown for each line reported on Form BQ-1(A), after the name.

C. Figures for the area totals and the grand total lines printed on Form BQ-1(A) must be calculated and entered on the form.

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

International Capital Form BQ-1

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary for Economic Policy

The data furnished on this report will be held in confidence.

Note: This report should be filed not later than the twentieth day following the last day of the month.

FORM APPROVED
OMB No. 048-R0543

This report is required by law (12 U.S.C. 95a; 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 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)).

Name of Reporting Bank

As of: Date

(Actual figures in thousands of dollars as of close of last business day of month)

FOREIGN COUNTRIES (a)	Code	Part 1. Reporting Bank's Own Claims: Remaining Maturity of Claims on Unaffiliated "Foreigners" (b) — On "Foreign Public Borrowers": One Year or Less (1)	Over One Year (2)	On Other "Foreign" Borrowers: One Year or Less (3)	Over One Year (4)	Memorandum: Customer Liability on Acceptances (c) (5)	Part 2. Claims of Reporting Bank's Domestic Customers: Deposits (d) (6)	Negotiable and Readily Transferable Instruments (e) (7)	Outstanding Collections and Other Claims (f) (8)	Total of Columns 1-8 (9)
		mill's - thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's	mill's thou's
EUROPE										
Austria	1018-9									
Belgium-Luxembourg	1030-8									
Bulgaria	1520-2									
Czechoslovakia	1528-8									
Denmark	1050-2									
Finland	1070-7									
France	1080-4									
German Democratic Republic	1600-4									
Germany	1100-2									
Greece	1120-7									
Hungary	1550-4									
Italy	1150-9									
Netherlands	1210-6									
Norway	1220-3									
Poland	1576-8									
Portugal	1231-9									
Romania	1580-6									
Spain	1250-5									
Sweden	1260-2									
Switzerland	1268-8									
Turkey	1280-7									
United Kingdom	1300-5									
U.S.S.R	1610-1									
Yugoslavia	1321-8									
Other Europe	1800-7									
TOTAL EUROPE	1999-2									
CANADA	2999-8									
LATIN AMERICA AND CARIBBEAN										
Argentina	3010-4									
Bahamas	3531-9									
Bermuda	3560-2									
British West Indies	3600-5									
Brazil	3030-9									
Chile	3040-6									
Colombia	3050-3									
Cuba	3070-8									
Ecuador	3100-3									
Guatemala	3120-8									
Jamaica	3160-7									
Mexico	3170-4									
Netherlands Antilles	3720-6									
Panama	3188-7									
Peru	3220-4									
Trinidad and Tobago	3240-9									
Uruguay	3260-3									
Venezuela	3271-9									
Other Latin America and Caribbean	3900-8									
TOTAL LATIN AMERICA AND CARIBBEAN	3999-3									

International Capital Form BQ-1

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

Name of Reporting Bank

As of: Date

FOREIGN COUNTRIES (a)	Code	Part 1. Reporting Bank's Own Claims					Part 2. Claims of Reporting Bank's Domestic Customers			
		Remaining Maturity of Claims on Unaffiliated "Foreigners" (b)				Memorandum				
		On "Foreign Public Borrowers"		On Other "Foreign" Borrowers						
		One Year or Less	Over One Year	One Year or Less	Over One Year	Customer Liability on Acceptances (c)	Deposits (d)	Negotiable and Readily Transferable Instruments (e)	Outstanding Collections and Other Claims (f)	Total of Columns 1-8
		1	2	3	4	5	6	7	8	9
		mill's / thou's	mill's / thou's	mill's / thou's	mill's / thou's	mill's / thou's	mill's / thou's	mill's / thou's	mill's / thou's	mill's / thou's
ASIA										
Bahrain	4070-3									
China, People's Rep. of (China Mainland)	4190-8									
China, Republic of (Taiwan)	4630-2									
Hong Kong	4200-5									
India	4210-2									
Indonesia	4221-8									
Iran	4230-7									
Iraq	4240-4									
Israel	4250-1									
Japan	4260-9									
Korea	4300-1									
Kuwait	4310-9									
Lebanon	4341-9									
Malaysia	4360-5									
Oman	4410-5									
Pakistan	4470-9									
Philippines	4480-6									
Qatar	4510-1									
Saudi Arabia	4560-8									
Singapore	4601-9									
Syria	4620-5									
Thailand	4641-8									
United Arab Emirates (Trucial States)	4660-4									
Other Asia	4890-9									
TOTAL ASIA	4999-9									
AFRICA										
Algeria	5010-5									
Egypt	5700-2									
Gabon	5241-8									
Ghana	5260-4									
Liberia	5320-1									
Libya	5330-9									
Morocco	5400-3									
Nigeria	5430-5									
South Africa	5571-9									
Zaire	5170-5									
Other Africa	5890-4									
TOTAL AFRICA	5999-4									
OTHER COUNTRIES										
Australia	6008-9									
All Other	6390-8									
TOTAL OTHER COUNTRIES	6990-6									
INTERNATIONAL & REGIONAL										
International	7290-7									
European regional	7390-3									
Latin American regional	7491-8									
Asian regional	7590-6									
African regional	7690-2									
Middle Eastern regional	7790-9									
TOTAL INTERNATIONAL & REGIONAL	7999-5									
GRAND TOTAL	9999-6									

OFFICIAL SIGNATURE

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

International Capital Form BQ-1(A)

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary
for Economic Policy

The data furnished on this report will be held in confidence.

Note: 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. 95a; 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 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)).

FORM APPROVED
OMB No. 048-R0543

Name of Reporting Bank

(Actual figures in thousands of dollars as of close of last business day of month)

As of: Date

FOREIGN COUNTRIES (a)	Part 1. Reporting Bank's Own Claims						Part 2. Claims of Reporting Bank's Domestic Customers			
	Remaining Maturity of Claims on Unaffiliated "Foreigners" (b)				Memorandum					
	On "Foreign Public Borrowers"		On Other "Foreign" Borrowers							
	One Year or Less	Over One Year	One Year or Less	Over One Year	Customer Liability on Acceptances (c)		Deposits (d)		Negotiable and Readily Transferable Instruments (e)	Outstanding Collections and Other Claims (f)	Total of Columns 1-8
Code	1	2	3	4	5		6		7	8	9
	mill's / thou's	mill's / thou's	mill's / thou's	mill's / thou's	mill's	thou's	mill's	thou's	mill's / thou's	mill's / thou's	mill's / thou's

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

Name of Reporting Bank

As of: Date

FOREIGN COUNTRIES (a)	Part 1. Reporting Bank's Own Claims						Part 2. Claims of Reporting Bank's Domestic Customers			
	Remaining Maturity of Claims on Unaffiliated "Foreigners" (b)				Memorandum					
	On "Foreign Public Borrowers"		On Other "Foreign" Borrowers							
	One Year or Less	Over One Year	One Year or Less	Over One Year	Customer Liability on Acceptances (c)		Deposits (d)		Negotiable and Readily Transferable Instruments (e)	Outstanding Collections and Other Claims (f)	Total of Columns 1-8
Code	1	2	3	4	5		6		7	8	9
	mill's / thou's	mill's / thou's	mill's / thou's	mill's / thou's	mill's	thou's	mill's	thou's	mill's / thou's	mill's / thou's	mill's / thou's
TOTAL EUROPE 1999-2											
TOTAL LATIN AMERICA AND CARIBBEAN 3999-1											
TOTAL ASIA 4999-9											
TOTAL AFRICA 5999-4											
TOTAL OTHER COUNTRIES 6990-6											
TOTAL INTERNATIONAL & REGIONAL 7999-5											
GRAND TOTAL 9999-6											

GPO 817-915

OFFICIAL SIGNATURE

INTERNATIONAL CAPITAL FORM BQ-2/BQ-2(A)

Department of the Treasury, Office of the Assistant Secretary for Economic Policy

[Form Approved: OMB No. 048-R0539]

INSTRUCTIONS FOR THE PREPARATION OF QUARTERLY FORM BQ-2 OR ALTERNATE FORM BQ-2(A): LIABILITIES TO AND CLAIMS ON "FOREIGNERS" PAYABLE IN FOREIGN CURRENCIES

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 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 customers which represent claims on "foreigners" payable in foreign currencies, acquired or held either here or abroad, in so far as data on these claims 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; 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 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 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 and banking institutions (including bank holding companies) in the United States, including the branches, agencies, subsidiaries, and other affiliates located in the United States or foreign banks and banking institutions, who have liabilities to 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 who 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. Unutilized 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.
9. Forward exchange contracts.

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 at the exchange rates prevailing on the report date.

Claims expressed in terms of a currency which has been invalidated by 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 will 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 "EARMARKED 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. For purposes of this report, deposits and other assets deposited abroad which are set aside against letters of credit; for interest payments on "foreign-held" securities issued in the United States sinking fund and bond redemption payments (whether held in trust or otherwise); or for other similar purposes should also be included in your reported figures.

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 INSTRUCTION RELATING TO PARTICULAR COLUMNS ON FORMS BQ-2 AND BQ-2(A) (see references 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 in this 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 for the account 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. Include deposits, certificates of deposit, obligations of foreign governments, commercial paper, finance paper, loans and collection items outstanding. Include foreign exchange bought which is in transit. Purchases and sales of forward exchange should be ignored. With respect to syndicated credits, each participant should report his own share. Do not

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.

The data furnished on this report will be held in confidence.

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

International Capital Form BQ-2

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary
for Economic Policy

Note: This report should be filed not later than the twentieth day following the last day of the month.

FORM APPROVED
OMB No. 048-R0539

This report is required by law (12 U.S.C. 95a; 22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 8560; 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)).

Name of Reporting Bank

(Actual figures in thousands of dollars as of close of last business day of month)

As of: _____
Date

FOREIGN COUNTRIES (a)	Code	Part 1. Reporting Bank's Own Liabilities and Claims: Liabilities to "Foreigners" (b) 1	Part 1. Claims on "Foreigners" (c): Deposits 2	Part 1. Claims on "Foreigners" (c): Other Claims 3	Part 2. Claims of Reporting Bank's Domestic Customers (d): Deposits 4	Part 2. Claims of Reporting Bank's Domestic Customers (d): Other Claims 5	Total of Columns 1-5 (for arithmetic check only) 6
		mill's | thou's	mill's | thou's	mill's | thou's	mill's | thou's	mill's | thou's	mill's | thou's
EUROPE							
Austria	1015-9						
Belgium-Luxembourg	1030-8						
Bulgaria	1520-2						
Czechoslovakia	1538-8						
Denmark	1050-2						
Finland	1070-7						
France	1080-6						
German Democratic Republic	1900-4						
Germany	1100-2						
Greece	1120-7						
Hungary	1550-4						
Italy	1150-9						
Netherlands	1210-6						
Norway	1220-3						
Poland	1576-8						
Portugal	1231-9						
Rumania	1580-6						
Spain	1750-5						
Sweden	1260-2						
Switzerland	1268-8						
Turkey	1280-7						
United Kingdom	1300-5						
U.S.S.R	1610-1						
Yugoslavia	1321-8						
Other Europe	1800-7						
TOTAL EUROPE	1999-2						
CANADA	2999-8						
LATIN AMERICA AND CARIBBEAN							
Argentina	3010-4						
Bahamas	3531-9						
Bermuda	3560-2						
British West Indies	3600-5						
Brazil	3030-9						
Chile	3040-6						
Colombia	3050-3						
Cuba	3070-8						
Ecuador	3100-3						
Guatemala	3120-8						
Jamaica	3160-7						
Mexico	3170-4						
Netherlands Antilles	3720-6						
Panama	3188-7						
Peru	3270-4						
Trinidad and Tobago	3240-9						
Uruguay	3747-3						
Venezuela	3271-9						
Other Latin America and Caribbean	3900-8						
TOTAL LATIN AMERICA AND CARIBBEAN	3999-1						

International Capital Form BQ-2

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

Name of Reporting Bank

As of: Date

FOREIGN COUNTRIES (a)	Code	Part 1. Reporting Bank's Own Liabilities and Claims						Part 2. Claims of Reporting Bank's Domestic Customers (d)				Total of Columns 1-5 (for arithmetic check only)	
		Liabilities to "Foreigners" (b)		Claims on "Foreigners" (c)				Deposits		Other Claims			
				Deposits		Other Claims							
		1		2		3		4		5		6	
		mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's
ASIA													
Bahrain	4070-3												
China, People's Rep. of (China Mainland)	4140-8												
China, Republic of (Taiwan)	4630-2												
Hong Kong	4200-5												
India	4210-2												
Indonesia	4221-8												
Iran	4230-7												
Iraq	4240-4												
Israel	4250-1												
Japan	4260-9												
Korea	4300-1												
Kuwait	4310-9												
Lebanon	4341-9												
Malaysia	4360-5												
Oman	4410-5												
Pakistan	4470-9												
Philippines	4480-6												
Qatar	4510-1												
Saudi Arabia	4560-8												
Singapore	4601-9												
Syria	4620-5												
Thailand	4641-8												
United Arab Emirates (Trucial States)	4660-4												
Other Asia	4890-9												
TOTAL ASIA	4999-9												
AFRICA													
Algeria	5010-5												
Egypt	5700-2												
Gabon	5241-8												
Ghana	5260-4												
Liberia	5320-1												
Libya	5330-9												
Morocco	5400-3												
Nigeria	5430-5												
South Africa	5571-9												
Zaire	5170-5												
Other Africa	5890-4												
TOTAL AFRICA	5999-4												
OTHER COUNTRIES													
Australia	6008-9												
All Other	6390-8												
TOTAL OTHER COUNTRIES	6999-6												
INTERNATIONAL & REGIONAL													
International	7290-7												
European regional	7390-3												
Latin American regional	7491-8												
Asian regional	7590-6												
African regional	7690-2												
Middle Eastern regional	7790-9												
TOTAL INTERNATIONAL & REGIONAL	7999-5												
GRAND TOTAL	9999-6												

OFFICIAL SIGNATURE

The data furnished on this report will be held in confidence

ALTERNATE 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

International Capital Form BQ-2(A)

DEPARTMENT OF THE TREASURY
Office of the Assistant Secretary for Economic Policy

Note: This report should be filed not later than the fifteenth day following the last day of the month.

FORM APPROVED
OMB No. 048-R0539

This report is required by law (12 U.S.C. 95a; 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 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)).

Name of Reporting Bank

(Actual figures in thousands of dollars as of close of last business day of month)

As of: Date

FOREIGN COUNTRIES (a) Code	Part 1. Reporting Bank's Own Liabilities and Claims						Part 2. Claims of Reporting Bank's Domestic Customers (d)				Total of Columns 1-5 (for arithmetic check only)	
	Liabilities to "Foreigners" (b) 1		Claims on "Foreigners" (c)				Deposits 4		Other Claims 5		6	
			Deposits 2		Other Claims 3							
	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's

ALTERNATE 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

Name of Reporting Bank

As of: Date

FOREIGN COUNTRIES (a) Code	Part 1. Reporting Bank's Own Liabilities and Claims						Part 2. Claims of Reporting Bank's Domestic Customers (d)				Total of Columns 1-5 (for arithmetic check only)	
	Liabilities to "Foreigners" (b) 1		Claims on "Foreigners" (c)				Deposits 4		Other Claims 5		6	
			Deposits 2		Other Claims 3							
	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's	mill's	thou's
TOTAL EUROPE 1999-2												
TOTAL LATIN AMERICA AND CARIBBEAN 3099-3												
TOTAL ASIA 4999-9												
TOTAL AFRICA 5999-6												
TOTAL OTHER COUNTRIES 6990-6												
TOTAL INTERNATIONAL & REGIONAL 7999-5												
GRAND TOTAL 9999-5												

GPO 817-813

OFFICIAL SIGNATURE

[FR Doc.77-35462 Filed 12-13-77;8:45 am]

federal register

WEDNESDAY, DECEMBER 14, 1977

PART VII

ENVIRONMENTAL PROTECTION AGENCY

■

REBUTTABLE PRESUMPTION AGAINST REGISTRATION AND CONTINUED REGISTRATION OF PESTICIDE PRODUCTS CONTAINING ETHYLENE DIBROMIDE (EDB)

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/25; FRL 827-7]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Ethylene Dibromide (EDB)

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

ACTION: Notice of rebuttable presumption.

SUMMARY: Ethylene dibromide (EDB) has been found to exceed certain risk criteria set forth in 40 CFR 162.11. This notice requests registrants and other interested persons to submit rebuttals and other information on the presumption and to submit any other data on the risks and benefits of this pesticide chemical. This notice is the first of several which will give public notification of the Agency's progress in reviewing this chemical.

DATES: Rebuttal evidence and other information must be received on or before January 30, 1978.

ADDRESS MATERIAL TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Anthony Inglis, Office of Special Pesticide Reviews, Office of Pesticide Programs (WH-566), Room 447, East Tower, EPA, 202-755-8053.

SUPPLEMENTARY INFORMATION: The Deputy Assistant Administrator, Office of Pesticide Programs, EPA, has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing EDB.[1]

I. Regulatory Provisions

A. *General.* Title 40, Part 162.11, of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects 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 bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption against registration is issued when 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 are 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 assessment 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 25, 1976; 41 FR 21402). Registrants 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 formulation, 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)];

(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 accrue to levels in man or the environment likely to result in any significant chronic adverse effects" [40 CFR 162.11(a)(4)(ii)]; or

(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 environmental benefits of the use 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[2] 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 3(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(c) 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 registrations and applications for registration of pesticide products containing 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. Copies of attachments to the Position Document, which are not published with this notice, are available for public inspection in the Office of Special Pesticide Reviews. Information protected from disclosure pursuant to FIFRA Section 10 cannot be provided. Specific inquiries concerning the Position Document, as well as requests for access to these files, should be directed to Project Manager Anthony Inglis, Office of Special Pesticide Reviews (WH-566), EPA, Rm. 447,

[1] A position document, containing an appendix of references, background information, and other material pertinent to the issuance of this notice, has been prepared by the Agency Working Group on EDB and is also published with this notice.

[2] Registrants or other interested persons who desire to submit benefit information should consider submitting information on the following subjects, along with any other relevant information they desire to submit:

1. Identification of the major uses of the pesticide, including estimated quantities used by crop or other application.

2. Identification of the minor uses of the pesticide, including estimated quantities used by categories such as lawn and garden uses and household uses.

3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.

4. Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products.

5. Assessment of regulation impact upon user productivity (e.g., yield per acre and/or total output) from using available substitute pesticides or from using no other pesticides.

6. If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities.

East Tower, 401 M St., Washington, D.C. 20460, 202–755–8053.

II. Presumptions

A. *Oncogenicity.* 40 CFR Section 162.11 (a) (3) (ii) (A) provides that a rebuttable presumption shall arise if a pesticide "(i) nduces 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 21402] 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) (A) provides that a rebuttable presumption shall arise if a pesticide "* * * induces mutagenic effects, as determined by multitest 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.

C. *Other Chronic or Delayed Toxic Effects.* 40 CFR § 162.11(a) (3(ii) (B) provides that a rebuttable presumption shall arise if a pesticide "(p) roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, 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 the risk index for reproductive effects has been exceeded by all registrations and applications for registration of pesitcide 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. The data 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 adverse effects, including analysis thereof, may serve as a basis for a final decision as to the registerability 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 claim covering part or all of the information submitted in rebuttal. The registrant or applicant may assert the claim by placing on or attaching to the information a cover sheet, stamped or typed legend, or 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 place the information in the public comment file where 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 first 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 at any time, pursuant to Section 6(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 animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which have not been previously submitted to EPA, the material must be submitted immediately. When responding 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 submitted. In addition, the registrants should 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 possible in triplicate to facilitate 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).

Comments received after the specified time period will be considered only to the extent feasible, consistent with the time limits imposed by 40 CFR 162.11(a) (5) (ii). All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days.

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 final determination pursuant to § 162.11 (a) (5) and (2) the Agency will not generally publish a summary of information

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.

I. BACKGROUND

A. CHARACTERISTICS

1. Nomenclature.
2. Chemistry.

B. REGISTERED PRODUCTS AND USES

1. Products and Production.
2. Use Patterns.
3. Tolerances.
4. Regulatory History.

C. ENVIRONMENTAL OCCURRENCE

1. Residue in Soils and Water.
2. Residues in Air.
3. Residues in Food and Feed.
4. Metabolism.

II. SUMMARY OF EVIDENCE TO SUPPORT REBUTTABLE PRESUMPTION

A. CHRONIC EFFECTS

1. Oncogenicity:
a. NCI bioassay.
b. Interpretation of NCI Study.
2. Mutagenicity:
a. Positive Effects.
b. Negative Effects.
c. Interpretation on Mutagenicity Studies.
3. Other Chronic Effects—Reproductive Effects:
a. Animal Studies.
b. Human Exposure.

III. SUMMARY OF EVIDENCE NOT SUFFICIENT TO SUPPORT AN RPAR

A. ACUTE TOXICITY CRITERIA

1. Humans.
2. Animals.

B. CHRONIC TOXICITY CRITERIA

1. Population Reduction of Nontarget or Endangered Species.
2. Teratogenicity.

C. LACK OF EMERGENCY TREATMENT CRITERIA

IV. REQUEST FOR INFORMATION

A. ACUTE TOXICITY CRITERIA—HUMANS

B. OTHER CHRONIC EFFECTS CRITERIA

C. HUMAN EXPOSURE DATA

V. BIBLIOGRAPHY

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 KH92750; 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 tolerances (21 CFR 123) and raw agricultural commodities tolerances (40 CFR 180). Furthermore there are uncertainties in portions of the scientific literature on ethylene dibromide as to which entity is measured analytically and reported as residues. The language of the food tolerances was originally based on the rationale that the parent compound, EDB, was converted to inorganic bromide ions following soil or commodity fumigation. Also the analytical methods generally employed up to 1969 had sensitivities of 0.2 to 1.0 ppm (parts per million) and frequently did not identify or differentiate between the organic or inorganic bromides in the sample.

2. *Chemistry.* EDB, a colorless, heavy nonflammable liquid at room temperature, is prepared commercially by reacting bromine with ethylene gas. It has a characteristic mildly sweet odor detectable in air at levels ranging from 10 to 25 ppm (77 mg/M³ to 192.5 mg/M³). Its chemical formula is CH_2BrCH_2Br and its molecular weight is 187.88.

EDB melts at 9.6°C and boils at 131.4°C; its heat of vaporization is +53 cal./gm at 25°C, but it has no flash point. Its vapor pressure is 11.00 mm Hg at 25°C and its vapor density is 6.5 (air=1). The density of EDB saturated air is 1.08 (air=1) and, at saturation, the concentration of EDB is 1.3% by volume at 25°C. The viscosity of EDB is 1.65 centipoise at 20°C and its density is 2.18 g/ml at 20°C. EDB is soluable in ethanol and ethyl ether and its solubility in water is 0.43 g/100g at 30°C. One part per million (ppm) of EDB is equivalent to 7.68 mg per cubic meter in air and one mg EDB per cubic meter is equivalent to 0.13 ppm.

B. REGISTERED PRODUCTS AND USES

1. *Number of Products and Production.* There are 122 Federal pesticide registrations, held by 53 registrants, of products containing EDB as an active ingredient. In addition, there are 24 State registrations, held by 12 registrants, of products containing EDB as an active ingredient. There are no Federally registered products containing EDB as an inert ingredient. Most of the Federal- and State-registered products are mixtures of EDB and other active ingredients such as carbon tetrachloride, ethylene dichloride, methyl bromide, chloroform, carbon disulfide, sulfur dioxide, chloropicrin, and benzene. EDB is usually formulate as a liquid concentrate or as a gel.

The U.S. production of EDB, as shown by the Standford Research Institute (SRI) for 1973, 1974, 1975, was 331.1, 332.1, 275.2 million pounds, respectively, with an estimated one-third of the 1973 production (approximately 100 million lbs) being shipped overseas (SFI, 1975).

2. *Use Patterns.* The primary pesticidal uses of EDB are:

Pre-plant soil fumigation by injection for a wide variety of food and non-food crops, including vegetables, fruits, grains, peanuts, cotton, and tobacco;

Post-harvest commodity fumigation for grains, fruits and vegetables (an important current use as a commodity fumigant appears to be in connection with various State, Federal or international quarantine programs on citrus, stone—, and other fruits, nuts, and vegetables);

Fumigation of grain milling machinery and flour mills to control insect infestations in milling residues and unprocessed milled products.

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 honey combs;

An internal preliminary economic review of EDB, prepared from very limited data, estimated that 7,306,000 lbs. of EDB pesticides (3–4% of 1975 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.*

Use:	*Thousand pounds/yr*
Tobacco [a]	4,059
Vegetable [a1]	[2] 1,000
Peanuts [a]	384
Cotton	700
Grain storage [b]	666
Flour millings [b]	385
Quarantine [b]	[3] 78
Wax moth/honeycombs	17.6
Mountain pine bark beetle	17.5
Subterranean termite control	5

[a] Soil fumigation—nematode control.
[b] Commodity fumigation—insect control.
[1] Includes fruits (orchard) and nuts.
[2] California uses estimated to total 400,000 lbs/yr.
[3] Estimate from APHIS, USDA, September, 1977.

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 gasoline 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 rationale that the parent EDB compound 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 at that time for organic bromide had a sensitivity of 0.2 to 1.0 ppm (parts per million) and was based on potentiometric titration which was not specific for EDB *per se*, but rather measured 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 preharvest 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 123 and 561. 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 the nematocide 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).

75 ppm in or on broccoli, carrots, melons, parsnips, potatoes;

50 ppm in or on eggplant, okra, summer squash, sweet corn, sweet corn forage, sweet-potatoes, tomatoes;

40 ppm in or on pineapple;

30 ppm in or on cucumbers, lettuce, peppers;

25 ppm in or on cottonseed, peanuts (180.-126a restricts use of treated peanut hay and hulls as feed for meat and dairy animals;

10 ppm in or on asparagus, cauliflower;

5 ppm in or on lima beans, strawberries.

Tolerances for residues of inorganic bromides in or on raw agricultural commodities resulting from post-harvest fumigation with EDB were established in 40 CFR 180.146 as:

50 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 (Mormodica charantia), cantaloupes, Cavendish bananas, citrus fruits, cucumbers, guavas, litchi fruit, litchi nuts, longan fruit, mangoes, papayas, bell peppers, pineapples, and zucchini squash in accordance with specified quarantine programs.

An exemption from tolerance for residues of *organic bromide* from post-harvest fumigation with EDB is established in 40 CFR 180.1006 for barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

A food additive tolerance for inorganic bromide residues from the use of EDB in or on grain-mill machinery, is established in milled fractions, derived from all sources, at 125 ppm by 21 CFR 123.225 [calculated as Br].

A food additive tolerance for inorganic bromide residues from the use of a mixture of EDB and methyl bromide in the production of fermented malt beverages is established in 21 CFR 123.230 as 125 ppm [calculated as Br]. An additional 25 ppm of inorganic bromides from other sources is established in 21 CFR 123.230d.

Food additive tolerances for inorganic bromides resulting from all organic bromides used as a soil fumigant (nematocide), raw agricultural commodity fumigant or processed food fumigant are established in 21 CFR 123.250 as:

400 ppm in or on dried eggs and processed herbs and spices;

325 ppm in or on parmesan cheese and roquefort cheese;

250 ppm in or on concentrated tomato products and dried figs;

125 ppm in or on processed foods;

125 ppm in or on bread, biscuit, cake, cookie, and pie mixes; breading; cereal flours and related products; cracked rice; dried vegetables; flours of barley, milo (sorghum), oats, rice, and rye; macaroni and noodle products; and soy flour.

Food additive tolerances for residues of inorganic bromides from fumigation with EDB are established in 21 CFR 561.260 as:

125 ppm for residues in or on milled fractions for animal feed from barley, corn, grain sorghum (milo), oats, rice, rye, and wheat, resulting directly from fumigation with methyl bromide or from carryover and concentration of residues of inorganic bromides from fumigation of the grains with methyl bromide or EDB.

4. *Regulatory History as a Pesticide.*

Date and action or recommendation

7/29/55—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 commodities: milk (30 ppm), peanuts (30 ppm), peanut hay (30 ppm), asparagus (10 ppm), carrots (100 ppm), cauliflower (10 ppm), celery (100 ppm), corn (50 ppm), cottonseed (200 ppm), lettuce (20 ppm), lima beans (5 ppm), parsnips (25 ppm), white potatoes (75 ppm), strawberries (5 ppm), sugar beets (5 ppm), sugar beet tops (100 ppm), sweet potatoes (50 ppm), and turnips (75 ppm).

8/30/55—Dow Chemical Co. amended petition by dropping tolerance requests for milk, peanuts and peanut hay due to inadequate data on animals fed peanuts and peanut hay grown on soil treated with EDB and because bromide residues in peanut hay fed to dairy cattle might contaminate milk.

9/29/55—FEDERAL REGISTER notice published proposing establishment of tolerances for inorganic bromide residues resulting from soil application of EDB found in or on the following commodities: asparagus (10 ppm), carrots (100 ppm), cauliflower (10 ppm), celery (100 ppm), corn (50 ppm), cottonseed (200 ppm), lettuce (20 ppm), lima beans (5 ppm), parsnips (25 ppm), white potatoes (75 ppm), strawberries (5 ppm), sugar beets (5 ppm), sugar beet tops (100 ppm), sweet potatoes (50 ppm), and turnips (75 ppm).

1/26/56—Dow Chemical Co. amended petition [1a] to exclude tolerance requests for lettuce, potatoes, turnips, celery, corn and sugar beets due to lack of adequate residue data.

6/8/56—Pesticide Petition submitted by Dow Chemical Co. requesting that EDB be exempted from the requirements of a tolerance when used as a post harvest fumigant for the following raw agricultural commodities: wheat, barley, oats, rye, corn (including popcorn and sweet corn) and grain sorghum (milo).

7/26/56—FEDERAL REGISTER notice published establishing an exemption from tolerance requirements for EDB when used as a post-harvest fumigant on the following grains: wheat, barley, oats, rye, corn (including popcorn and sweet corn) and grain sorghum (milo).

7/26/56—FEDERAL REGISTER notice published establishing a tolerance of 50 ppm for inorganic bromide residue, resulting from post-harvest fumigation with EDB, in or on the following grains: wheat, barley, oats, rye, corn (including popcorn and sweet corn) and grain sorghum (milo).

8/1/56—USDA petitioned FDA for the continued use of EDB as a fumigant in two emergency programs designed to control the widespread introduction of the fruit fly into large agricultural regions of the U.S. and for the establishment of a tolerance of 10 ppm inorganic bromide residue, resulting from fumigation with EDB by the USDA-sponsored program, found in or on beans (string), bitter melon, Cavendish bananas, citrus fruits, cucumbers, guavas, mangoes, papayas, peppers (bell), pineapples and zucchini squash.

9/22/56—FEDERAL REGISTER notice published establishing tolerance of 10 ppm for inorganic bromide residue, resulting from fumigation with EDB, found in or on beans (string), bitter melon, Cavendish bananas, citrus fruits, cucumbers, guavas, mangoes, papayas, peppers (bell), pineapples and zucchini squash.

10/14/56—Pesticide Petition submitted by Dow Chemical Co. to FDA requesting 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).

1/3/57—FEDERAL REGISTER notice published proposing establishment of tolerance of 10 ppm for inorganic bromide residue, resulting from fumigation with EDB, found in or on cantaloupes and litchi nuts.

1/17/57—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.

3/7/57—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 residues with EDB, found in or on plums treated with EDB, as part of a quarantine program.

5/14/57—Dow Chemical Co. amended petition to exclude tolerance requests for inorganic bromide residues on the following commodities: Irish 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 cantaloupes and litchi nuts and 20 ppm found in or on plums.

6/18/57—FEDERAL REGISTER notice published establishing tolerance 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).

1/21/58—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 for the following commodities: okra (50 ppm) and pineapples (40 ppm).

3/13/58—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 litchi fruits.

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 litchi fruits.

6/7/58—FEDERAL REGISTER notice published establishing tolerances for inorganic bromide residues for the following commodities: okra (50 ppm) and pineapples (40 ppm).

5/10/58—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 commodity: potatoes (75 ppm).

7/4/58—FEDERAL REGISTER notice published proposing establishment of a tolerance for inorganic bromide residues of 75 ppm found in or on potatoes.

10/4/58—FEDERAL REGISTER notice published establishing tolerance for inorganic bromide residues, resulting from soil appli-

[1a] Tolerances from this petition (7/29/55) never officially established.

cation of EDB, found in or on the following commodity: potatoes (75 ppm).

10/26/64—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: peanuts (25 ppm).

4/1/65—Dow Chemical Co., amended use directions found on the labels of EDB products used to treat soil for cultivation of peanut crops to include the following: "Any forage crop grown on soil treated with a bromide containing fumigant should not be used as a feed for dairy animals, or for animals being finished for slaughter until 2 years after row treatments are made and 3 years following overall treatments."

5/28/65—Pesticide Petition submitted by USDA to FDA requesting establishment of a tolerance increase from 10 ppm to 50 ppm for inorganic bromide residues in or on Mexican oranges treated with EDB.

6/65—National Academy of Sciences/National Research Council (NAS/NRC) issued a report recommending that "no residue" and "zero tolerance" concepts be abandoned. Report stated that zero tolerances were not desirable, since, as experience bore out, residues might be present at levels below the current sensitivity of detection methods.

11/9/65—FEDERAL REGISTER notice published establishing a tolerance of 25 ppm for inorganic bromide residues, resulting from soil application of EDB, found in or on peanuts.

4/13/66—Joint USDA-HEW statement for implementation of NAS/NRC recommendation 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 lacking. However, extensions were granted until December 31, 1970, if progress was being made to support the conclusion that the registration could be continued without undue hazard to the public health.

6/29/66—Due to lack of toxicity data, USDA withdrew petition for inorganic bromide residue tolerance increase on Mexican oranges.

1/30/68—PR Notice (68-5) published extending EDB "no residue" and "zero tolerance" registrations until 1/1/69 for use on apples, apricots, dry beans, beets, cabbage, celery, cucurbits, olives, peaches, pears, peas (dry), seed beds, spinach and turnips (per uses listed on pages 400, 401, 403, 404, 404 of *USDA Summary of Registered Agricultural Pesticide Chemical Uses*).

2/1/68—PR Notice (68-6) published cancelling EDB "no residue" and "zero tolerance" registrations for use on alfalfa, mushrooms, peas, soybeans, sugar beets, general fruit and vegetable uses and nuts (per uses listed on pages 400, 402-405, *USDA Summary*).

4/24/68—PR Notice (68-8) published classifying fruit tree soil fumigation and honey comb fumigation as non-food uses (per uses listed on pages 401, 405, *USDA Summary*).

1/10/69—PR Notice (69-1) published extending EDB "no residue" and "zero tolerance" registrations until 1/1/70 for uses as a soil fumigant on string beans, beets, cabbage, celery, corn (grain) cucurbits, seed beds, spinach and turnips (per uses listed on pages 400, 401, 403, *USDA Summary*) and as a commodity fumigant on dry beans and dry peas (per uses listed on pages 404, 406, *USDA Summary*).

9/19/69—USDA petitioned FDA for the establishment of a tolerance of 10 ppm for inorganic bromide residues, resulting from post harvest application of EDB, found in or on longan fruits.

9/23/70—FEDERAL REGISTER notice published establishing tolerance of 10 ppm for inorganic bromide residues, resulting from post harvest application of EDB, found in or on longan fruits.

2/26/70—PR Notice (70-4) published cancelling EDB uses previously extended by PR Notice (69-1), with the exception of cucurbits, due to lack of response for finite tolerances (or exemptions) and lack of progress of safety investigation.

4/16/73—Pesticide Petition submitted by Interregional Research Project No. 4, Rutgers University (on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Pennsylvania) requesting either an exemption from tolerance for methyl bromide and EDB and their inorganic bromide residues when used as a post-harvest fumigant on comb honey or honey or a tolerance of 25 ppm for inorganic bromide residues found in or on comb honey or honey as a result of post-harvest fumigation with EDB.

11/23/73—IR-4 Petition denied by FDA as a result of insufficient toxicological data to safely support a tolerance of 25 ppm for residues of methyl bromide or EDB found in or on comb honey and honey and due to a 9/4/73 letter from Dr. Weisburger of NCI stating 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. 21, 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 RPAR procedure.

8/26/77—The Environmental Defense Fund amended their earlier petition to include that EPA act under authority granted by the recently enacted Toxic Substances Control Act as well as under FIFRA.

C. ENVIRONMENTAL OCCURRENCE

1. *Residues in Soils and Water.* EDB does not degrade appreciably over a two week period (McHenry, 1972) but is converted almost completely to ethylene and bromide ions in about two months (Castro and Belser, 1968). Thomason, *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 at two citrus fumigation centers in Florida. EDB levels in dustfall at these centers ranged from 6 to 363 picograms (one trillionth of a gram) per square centimeter per hour. No detectable 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 (Going and Spigarelli, 1976).

Very low levels of EDB, less than 0.2 micrograms (millionth of a gram) per liter, were found in the aqueous effluent stream from one oil refinery; rainfall runoff water from the area of several retail gasoline stations also contained less than 0.2 micrograms per liter. Rainfall samples collected close to one of the fumigation centers had an EDB level of one microgram per liter and the runoff from this same center contained two micrograms per liter. The minimum detectable quantity was 10–15 nanograms per sample (Going and Spigarelli, 1976).

2. *Residues in Air.* In the Going 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 0.1–0.4 micrograms per cubic meter, respectively. Elevated air levels of EDB were found at the two citrus fumigation centers—up to 96 micrograms per cubic meter downwind of the centers, and up to 6,931 micrograms 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 during an operational soil fumigation with this compound in three California locations. Table 2 presents the data from this study (White and McAllister, 1977).

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).*

Application rate (pounds per acre)	Duration of sampling (hours)	Average concentration (milligrams per cubic meter)— Adjacent untreated field	Treated field	Breathing zone of applicator	Amount [a] inhaled (milligram per kilogram per day)
[b] 135	7.5	0.375	3.325	3.187	0.6
[c] 84.3	7.0	.075	.712	4.850	1.0
[d] 31.5	6.5	ND(e)	----------	.500	.1

[a] Assumptions, 70 kg man, breathing 1.8 m³/hr/8 hr day, retains all inhaled EDB.
[b] Broadcast treatment, closed system, air inversion developed by mid afternoon.
[c] Broadcast treatment, polydrum system, applicator left valve open while chisels were out of ground.
[d] Row treatment, polydrum system, sampling pump malfunctioned in treated field, no sample collected.
[e] 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 fumigation. The following discussion of EDB residues is based on studies which fall into this second category.

Brown, *et al* (1958) and Beckman, *et al* (1967) showed large increases of inorganic bromine ion in crops grown in soils fumigated with EDB and other organic bromide compounds. Castro and Schmitt (1962) and Thomason, *et al* (1971) have shown that no detectable residues of organic EDB are found in plants grown in EDB-fumigated soils.

Caylor and Laurent (1969) reported commercially fumigated oats used as chicken feed were found to have residues of 10–15 ppm (mg/kg) several weeks after fumigation.

In a series of studies, a group of Israeli scientists measured residues of EDB in the peel and pulp of grapefruit, oranges, and lemons (Chalutz, *et al*, 1971; Chalutz, *et al*, 1972; Alumot and Chalutz, 1972; Bussel and

Kamburov, 1976). These authors used a GLC method based on one developed by Bieloral and Alumot (1965) for EDB analysis on fumigated grains. With this method, residues of 1–43 ppm were found in the peel, and 0.4–2.4 ppm in the pulp at four days post-fumigation. Residue levels were dependant on the rate and length of fumigation and the temperature nad length of the post-fumigation aeration. Bussel and Kamburov (1976) showed that the residues in both peel and pulp dissipated completely in less than two weeks.

Dumas (1973) and Dumas and Bond (1975) reported on the levels of residues in apple skin, pulp and seeds following EDB fumigation at several rates and temperatures. Initially high residues of up to 308 ppm decreased to <0.1 ppm in 4 weeks, except seeds which retained levels of 25 ppm up to 13 weeks (note: this is not a registered use in the U.S.).

Wit, *et al* (1969) measured EDB residues resulting from experimental 10-day fumigation of wheat at a calculated rate of 1.41 l/metric ton. Using an analytical method sensitive to 0.001 ppm these authors reported residues of 5–30 ppm in the whole wheat which resulted in 2–4 ppm in the flour milled from this wheat, and 18–23 ppm in the "shorts" and bran. White bread baked from the flour showed EDB residues of 0.002–0.04 ppm while whole meal bread, baked from flour containing about 25% shorts and bran combined, showed residues of 0.006–0.026 ppm. The higher values were found in the wheat that had been aerated post-fumigation for 2–4 weeks while the lowest values were found in wheat aerated for 10–12 weeks.

In a study related to development of analytical methods, McMahon (1971) analyzed wheat and milo which had been commercially fumigated with a mixture of 6.6% EDB, 70.5% carbon tetrachloride, 16.5% carbon disulfide and 6.4% methylene chloride at a rate of one gallon/1000 bushels of grain. Using a method with a sensitivity of 0.3 ppm, this author reported EDB residues of 2.5–6.1 ppm in the wheat samples and 1.3 ppm in the single milo sample. Analysis was carried out 3 weeks to 2 months following fumigation of the wheat and 3 months, post-fumigation, for the milo. The highest levels in the wheat were found in the samples with the shortest post-fumigation period.

In a study of commercially fumigated wheat, Berck (1974), using a fumigation rate of one half that used by Wit *et al* (1969) found EDB residues in the fumigated wheat and in flour milled from this wheat but not in bread baked from this flour. The fumigant mixture, contained 63% carbon tetrachloride, 30% ethylene dichloride, and 7% EDB and was applied at a rate of 0.67 l/metric ton. With a method sensitive to 0.01 ppm, this author reported EDB residues in the wheat ranging from 3.26 ppm at one week post-fumigation to 1.36 ppm at seven weeks post-fumigation. EDB residues in flour from this wheat ranged from 0.29 to 0.01 ppm; bran ranged from 0.40 to zero ppm; and middlings ranged from 0.30 to zero ppm. In contrast to the findings of Wit, *et al* (1969), no EDB residues were found in 72 subsamples from 24 loaves of bread baked from the fumigated wheat.

In partial explanation of the wide ranges of residues reported following fumigation of citrus fruits and other raw agricultural commodities, Coggiola and Huelin (1964) reported that "appreciable quantities" of EDB were absorbed by wood, rubber, petroleum grease, concrete, and certain paints and plastics associated with fumigation chambers or packing materials.

Unpublished data obtained by Litten Bionetics, Inc. for Great Lakes Chemical Corporation indicated no detectable residues of EDB from the pre-plant fumigation of soils for green beans, snap beans, lime beans, cucumbers, bell peppers, tomatoes, peas, eggplant, sweet corn, watermelons, okra, squash, peanuts, soybeans, potatoes, cabbage, and onions. Soybean hay showed apparent residues corresponding to EDB of 0.09, 0.08, and 0.02 ppm (Litton Bionetics, 1977). The method of analysis, as reported by Litton Bionetics (1976), was able to detect as little as 0.4–0.5 nanograms per sample with a limit of sensitivity of 0.010 ppm (mg/kg).

4. *Metabolism.* The following discussion is adopted from the EDB criteria document (NIOSH, 1977) and references therein unless otherwise noted.

Under sterile conditions EDB can be very persistent. For example, its half-life in water (pH 7) at 20° C is 14 years. Like other halogenated alkanes, EDB is reactive toward a broad class of chemicals—nucleophiles—through the process of alkylation. In fact, it is this reaction of EDB with one of these nucleophiles, glutathion, which provides a major detoxification route in higher organisms (Nachtomi, 1970, Nachtomi, *et al*, 1966) although enzymatically catalyzed degradiation reactions also assist in the elimination of EDB from organisms. A measure of the speed of these processes is shown by the reported halflives of EDB in intravenously injected rats and chicks, of less than two hours and less than 12 hours respectively.

While its electrophilic behavior in the presence of nucleophiles assists in detoxifying an organism, this same ability to enter into alkylation reactions has been linked to a mechanism for damaging DNA. Specifically, alkylating agents such as EDB can also react with nucleophilic groups which are an integral part of DNA. The reaction product is a DNA molecule which has been altered by the addition of a covalently bonded alkyl group. This ability to alkylate DNA is shared with a number of chemicals which have been shown to be carcinogenic and/or mutagenic (Fishbein, 1976).

The presence of two bromine atoms on different carbon atoms admits the possibility of EDB entering into two separate alkylation reactions. The initial monoalkylation product between EDB and a substrate (e.g. DNA) heteroatom, such as nitrogen, oxygen, or sulfur, is a "half-mustard" reagent which could spontaneously cyclize through the other carbon atom to form a strained three-membered ring. This highly reactive intermediate may then undergo a second alkylation reaction with cellular DNA resulting in a covalent link between the DNA strands which may interfere with normal separation of the strands during DNA synthesis and subsequent cell division. Because of this additional reactive capability such bifunctional alkylating agents tend to possess a considerably greater biological activity than monofunctional agents of the same primary reactivity.

These alkylating agents may also alter the chemical behavior and physical characteristics of cellular constituents so as to prevent the altered molecules from functioning normally in physiological processes. This may account, in part, for the subsequent deleterious effects observed in biological systems exposed to EDB. Note also that when the risk of induction of

II. Summary of Evidence to Support Rebuttable Presumption

A. Chronic Effects

1. *Oncogenicity.* 40 CFR 162.11(a)(3)(ii)(A) provides that a " * * * rebuttable presumption shall arise if a pesticide's ingredient(s) * * * induces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation, or dermal exposure * * * " Section 162.3(bb) defines 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 following study has been examined by the Working Group and found to present evidence which meets the above criterion.

a. *NCI Bioassay on Rats and Mice.* A National Cancer Institute (NCI) study was conducted at Hazelton Laboratories on Osborne-Mendel rats and (C57BL x C3H) F-1 mice between 1972 and 1974. Two dose levels, 80 and 40 mg/kg/day for rats and 120 and 60 mg/kg/day for mice, were initially selected. Fifty males and 50 females of each species were placed in these treatment groups, while 20 animals of each sex were used in the control (untreated) group. EDB was administered by intubation into the stomach daily, five days per week. Results obtained at various stages in the study have been reported in three published documents (Olson, *et al*, 1973; Ward and Habermann, 1974; Powers, *et al*, 1975) and in one unpublished report (Weisburger, 1977).

Olson, *et al*, (1973) reported preliminary findings after the rats had been on dosage for up to 54 weeks and the mice for up to 42 weeks. Both a female and a male rat killed at the tenth week had a squamous-cell carcinoma in the stomach and, as the experiment progressed, this type of tumor was found in other rats that died or were killed because of ill health. By the 54th week 80 male rats, and 38 female rats, on both high and low doses, had developed this type of tumor; none of the control animals had tumors of this type while only one female control rat had developed a mammary adenoma. The corresponding numbers for mice was 4 males and 3 females, with no tumors in any of the controls.

The pathologists' report (Ward and Habermann, 1974) for this study cited the results of their examination of the male rats, used in the low dose exposure, as similar for all groups of both species. They found diffuse squamous-cell hyperplasia (acanthosis and hyperkeratosis) of the forestomach with many papillomatous projections. They further reported metastases to the peritoneal cavity, mesotheliomas, poorly differentiated stomach tumors, intestinal tumors, and nodular hyperplasia in the liver. They concluded that EDB was "very carcinogenic."

Powers, *et al*, (1975) reported the findings "* * * at termination of these studies following 62nd week of treatment with EDB * * *," (the actual time on treatment for each species versus the time to termination of the study is not clearly identified in this or the other three reports). Powers *et al*., reported the incidence of squamous-cell carcinoma of the stomach in excess of 90 percent for rats and 70 percent mice.

In a draft report presented at a National Cancer Institute seminar, Weisburger reported the findings of this same study in more detail (Weisburger, 1977). The total incidence of squamous-cell carcinomas, metastases and other tumors was tabulated in this report but no information was presented on the actual time frame involved. Table 3 presents a summary of Weisburger's data on stomach tumors in both rats and mice.

b. *Interpretation of NCI Study.* The recently completed criteria document on EDB (NIOSH, 1977) stated "The irregularities in the dose regimens of both species, the use of the suggested maximum tolerated dose, and the route of administration do not negate the importance of the fact that ethylene dibromide has induced carcinomas in two mammalian species. The data from this single study indicate that ethylene dibromide is a carcinogen after daily introduction of about one-half the maximum tolerated dose into the stomach of rats and mice for up to 62 weeks."

TABLE 3.—*Incidence of stomach tumors in rats and mice induced by intubation of EDB (adapted from Weisburger, 1977)*

Species and sex	High dose [a]	Low dose [a]	Control [a]
Rat, female	30/31 (96.8)	41/42 (97.6)	[b] 1/10 (10.0)
Rate, male	35/41 (85.4)	49/50 (98.0)	0/20 (0)
Mouse, female	29/50 (58.0)	48/49 (98.0)	0/20 (0)
Mouse, male	31/49 (63.3)	45/49 (91.8)	2/19 (10.5)

[a] Upper figure=number with tumor; lower figure=number examined; figure (#)=percent with tumors.
[b] 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.

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 forestomach."

The Carcinogen Assessment Group (CAG) of EPA has provided a preliminary statement regarding the results of the NCI/Hazelton study (EPA, CAG Memo, 8/26/77). They 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 Agency, but the final data compilations have been received (8/10/77). From our quick review of the data compilation tables and a manuscript by Elizabeth K. Weisburger (NCI)[1b], we can state that EDB causes a significant increase in the incidence of gastric carcinomas in both sexes of rats and mice. Metastases of these tumors are reported. The tumor rates appear to be high, and the differences are highly significant."

2. *Mutagenicity.* 40 CFR 162.11(a)(3)(ii)(A) provides that a "* * * rebuttable presumption shall arise if a pesticide's ingredient(s) * * * induces mutagenic effects as determined by multitest evidence." Section 162.3(4) defines the term mutagenic as "* * * 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. The following studies have been examined by the Working Group and found to present evidence which meets the above criteria.

The following discussion is based in part on a review performed for EPA's Office of Toxic Substances in 1976 by the SRI (1977), as well as reviews performed by EPA's CED. The cited reports have been organized as to whether they show positive or negative effects.[2a] Under each of these categories, the studies have further been organized according to the resulting genetic end effects, i.e. point (gene) mutation (1); chromosomal damage (2); and primary DNA damage (3).

a. *Positive Effects.* (1) Point (gene) mutation studies.

Buselmaier, *et al*, 1972. EDB was shown to cause reversions to histidine prototrophy in *Salmonella typhimurium* G-46 in the host-mediated assay in mice. In this test a single high dose of 500 mg/kg was administered intramuscularly to the mice and the bacteria were incubated in the peritoneal cavity. The mutation frequency was 6.23 loci/10^8 cells in the treated animals and was 0.77 loci/10^8 cells in untreated 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 also reported to 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* G-46.

McCann, *et al*, 1974. EDB, administered as a liquid directly into molten agar containing the 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 the test was carried out without a mammalian metabolic activation system. There were 0.029 revertants per microgram. Since EDB is volatile, application into molten agar may not be the optimal mode of exposure. Dr. V. F. Simmon of the Stanford Research Institute has stated that higher mutation frequencies are observed in *Salmonella* when EDB is placed on a filter disc and then laid on the agar, or when the plate containing the bacteria is exposed to the compound as a vapor (personal communication, cited in the SRI, 1977 study).

Brem, *et al*, 1974b. EDB has been shown to be active in inducing reversions to histidine prototrophy in *Salmonella typhimurum* strains TA1530 and TA1535, but not in TA1538. This indicates that EDB interacts with DNA to produce a base substitution. In these tests, 10 microliters of the chemical were applied to a filter paper disc, which was then laid on hardened agar containing the bacteria. Using the same technique for exposing the bacteria to EDB, a linear, dose-related increase in mutagenic activity over a range of approximately 2–12 micromoles/plate was observed in strain TA1530. Since this exposure technique does not completely accommodate the volatility of EDB, it is probable that mutation frequencies observed (e.g., 300–1500 revertants/plate over the dose range tested in strain TA1530) may be lower than could have been expected had the bacteria been exposed to the full dose of the chemical.

Malling, 1969; De Serres and Malling, 1970. EDB has been shown to cause forward mutations to a requirement for adenine in *Neurospora crassa* at the *ad-3* gene locus. The conidia were treated for 3 hours with 1.2–1.63 microliters/ml EDB in 0.06M phosphate buffer, pH 7.0, containing 10% dimethyl sulfoxide. At 1.6 microliter/ml the mutation frequency induced by the compound was 30 per 10^6 survivors compared to 0.5 per 10^6 survivors for untreated controls.

Vogel and Chandler, 1974. EDB was reported to be active in the induction of sex-linked recessive lethal mutations in *Drosophila melanogaster*. Males were given an 0.3 mM solution of the chemical orally over a three-day period, and then mated with sets of two new females every three days to establish three broods. Although the results of only one dose level are reported, a significant increase in percent of lethal mutations over controls was observed, particularly in the second and third broods, which corresponds to effects on the spermatid and spermatocyte stages of spermatogenesis.

Clive, 1973. Clive tested the mutagenic potential of EDB on the mouse lymphoma L5178Y cell culture system. EDB concentrations of 0.0–3.0 mM were used with 2-hour exposure times. The induced mutagenic frequency (3×10^{-4} mutants per cell at a concentration of 0.001 moles of EDB for 2 hours) was dose-related and approximately equivalent to a dose of 650 R of X-irradiation.

Sparrow and Schairer, 1974; Sparrow *et al*, 1974; Nauman, *et al*, 1976. This group of scientists at the Brookhaven National Laboratory have reported that EDB caused pink somatic mutations in stamen hair cells of *Tradescantia* mutable clones *02*, *0106*, and *4430*. Sparrow and Schairer (1974) concluded that gaseous concentrations of less than 10 ppm EDB for six hours significantly increased the mutation rate in this plant system and that the relative effectiveness of various mutagens can be estimated, and may be indicative of their hazard to man. Sparrow, *et al*, (1974) determined the dose-response curves for EDB and compared this with X-ray dose-response curves using clones *02* and *4430*. These authors concluded that the phenotypic changes resulting from these exposures (pink and colorless) may be associated with chromosome breakage, gene mutation, chromosome non-disjunction, or somatic crossing over.

Nauman, *et al*, (1976) concluded that intercomparisons among the exposure-response curves of X-rays, ethyl methanesulfonate and EDB, in this test system, demonstrate that gaseous chemicals can be as, or more, mutagenic than X-rays. One clone (4430) showed a relatively low sensitivity to X-rays, but a consistently high sensitivity to the chemical mutagens tested.

Ehrenberg, *et al*, 1974. In a study to determine the relationship between reaction kinetics and mutagenic activity of methylating and beta-halogenoethylating gasoline additives, EDB was reported to be mutagenic in barley kernels.

(2) Chromosomal damage studies. No positive chromosomal damage studies have been found for EDB.

(3) Primary DNA damage studies, Meneghini, 1974. EDB, at dosages covering the range of $10^{-6}-10^{-2}$M/15×10^6 cells, was found to induce unscheduled DNA synthesis (UDS) in opossum lymphocytes treated for one hour. This is evidence that the test compound is interacting with DNA. The effect observed was dose-related and the level of UDS was greater than that induced by either methyl- or ethyl-methanesulfonate,* known potent gene and chromosomal mutagens in mammals.

Fahrig, 1974. EDB was reported to be highly active in inducing mitotic gene conversion in *Saccharomyces cerevisiae* D_4 at the *adenine* 2 and *trytophan* 5 loci. The effect reported was strongly positive. At a concentration of 0.17 mM on treatment for 27 hours, 10.8 convertants per 10^6 survivors were observed at the ade_2 locus vs. 0.48 per 10^6 survivors in untreated controls. At the trp_5 locus, 8.85 convertants per 10^6 survivors were

[1b] The final tabulation of pathology data was not completed by NCI at time of Weisburger's draft (1977). Since then the CAG has received the final data compilations of the histopathology findings and is presently reviewing them and a supplemental report will be made available at a later date.

[2a] Studies with insufficient data for evaluation of the claimed effects are categorized as negative.

*These two compounds are generally used as positive controls in mutagenic studies.

observed vs. 0.82 per 10^4 survivors in untreated controls.

b. *Negative Effects.* (1) Point (gene) mutation studies.

Alper and Ames, 1975. EDB has been shown to be inactive in inducing deletions in the *gal-chlA* gene region of *Salmonella typhimurium* LT-2.

Buselmaier, *et al*, 1972. EDB, administered intramuscularly, was reported to be inactive in inducing reversions to leucine protorophy in *Serratia marcescens* A21 in the host-mediated assay in the mouse. The compound was also reported to be inactive in *S. marcescens* in a qualitative test *in vitro*. The data presented are insufficient for evaluating the effect of EDB in the host-medicated 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 inaccuracy 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 inactivity in strain TA1538 might be predicted since the strain is designed to detect frameshift mutagens 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 insensitive test and the *in vitro* cytogenetic tests are difficult to perform and evaluate due to cellular toxicity effects.

Epstein, *et al*, 1972. EDB was reported to be inactive in inducing mutations when administered intraperitoneally (18 or 90 mg/kg) or orally (5 times, 50 or 100 mg/kg) to male ICR/Ha Swiss mice. This report is essentially a review article and the data presented were insufficient for establishing a negative result, primarily because none of the relevant parameters were tabulated (e.g. total implants, early fetal deaths, and pregnancy rates).

Kristoffersson, 1974. EDB was reported to be inactive in inducing chromosome breakage in human lymphocytes and onion root tips. This report was a meeting abstract and no data were presented on which to base an evaluation.

(3) Primary DNA damage studies. Brem, et al. 1974a and 1974b. EDB has been reported to be more toxic to DNA repair deficient *Escherichia coli* P3478 (pol A−) than to repair competent *E. coli* W3110 (pol A+). Greater toxicity to train P3478 may reflect potential for inducing DNA damage. 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 NIOSH criteria document concludes that the mutagenic potential of 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 (NIOSH, 1977).

In a memorandum dated 9–10–77, Dr. R. Pertel stated that there is ample evidence to fulfill both the multitest criteria for EDB as a mutagen as well as the scientific criteria of the EPA Science Advisory Board's (SAB) 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. *Other Chronic Effects—Reproductive Effects.* 40 CFR 162.11(a)(3)(ii)(B) provides that a "* * * rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) * * * produces any other chronic or delayed toxic effect in test animals at any dosage up to a level, 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."

The Working Group has examined the following repoductive effects studies and finds them to present evidence which meets the above criterion. The Working Group also finds that, because sufficient data do not exist for determining a "no-observable-effect" level for the reproductive effects of EDB via oral, inhalation or dermal routes of exposures, acceptable levels of exposure may not be calculated for persons exposed by any of these routes following the pesticide uses of EDB. Furthermore the Working Group believes that the difference between the levels of EDB to which bulls were exposed and at which reproductive effects were evidenced (average dose of 2 mg/kg/day, see table 4), and the levels to which field applicators and citrus fumigators may be exposed (0.1–1.0 mg/kg/day, see table 2, and up to 0.425 mg/kg/day, see table 3, respectively, (does not constitute an ample margin 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 those summarizations, data on levels to which humans can be exposed are presented.

a. *Animal Studies.*—(1) Bulls. Several studies by Israeli scientists have established that oral exposure of EDB to bulls is associated with reduced sperm production, reduced sperm motility, and abnormal sperm structure. These studies are summarized in table 4 and some examples of the results are presented below.

Amir and coworkers described the effects of EDB on sperm in a series of experiments in which EDB was 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 a 4 mg/kg dose on alternate days by capsule, with variation from this protocol for the calves under 12 months of age. At various periods following the beginning of treatment, and after age 14–16 months for calves, sperm samples were examined either in the testes or in ejaculates.

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 epididymus. 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 epididymus. No data were presented on the occurrence of misshapened sperm in comparable untreated animals.

TABLE 4.—*Summary of reproductive effects of EDB in bulls*

Route of exposure	Sex and age	EDB concentration and duration	Observed effects	Reference
Oral: milk 3 mo; feed 9 mo. Capsule: over 12 mo.	3 bull calves	4 mg/kg/d on alternate days—4d to 24 mo.	No effect on growth or libido, abnormal spermstozoa, decreased sperm density and motility, recovery 10 d to 3.5 mo. in 2 animals after discontinued, recurrence of above after renewal of treatment.	Amir and Volcani, 1965.
Do	do	Same dose and duration as above, unilaterally castrated at 17½ to 22½ mo.	Testes at castration, depopulated of spermatozoa, showed histologic changes, semen from remaining testis in two animals normal 3 to 4 mo. after discontinued, decreased sperm density and motility in 3d animal.	Amir and Volcani, 1967.
Oral, capsule	2 bulls—15 to 20 mo	4 mg/kg on alternate days—12 d and 21 d.	Abnormal spermatozoa in testes, epididymis, ductus deferens, and in ejaculate.	Amir, 1973.
Testicular injection or oral capsule, labeled EDB.	4 bulls—15 to 20 mo	1 bull injected 1–120 mg dose; 1 bull each 10 oral doses 2 g, 220 mg, 350 mg.	Abnormalities of spermatozoa remained maximal while radioactivity of seminal fluid and spermatozoa decline to low levels, EDB affected spermiogensis and sperm maturation.	Do.
Oral capsule	3 bulls—15–20 mo	4 mg/kg/d on alternate days—10 doses.	High percentage of sperm abnormalities 12 to 17 d after start, percent abnormalities decreased about 1 mo following cessation of treatment, decrease of sperm motility but not density. (See Amir and Volcani, 1966.).	Amir and Ben-David, 1973.
Injection olive oil in testes.	2 bulls—15–20 mo	110 to 120 mg each—1 time	Same as above, but no effect on sperm motility	Do.
Oral capsule	Same 3 bulls as Amir and Volcani, 1965 and 1967.	4 mg/kg/d on alternate days—4d to 24 mo.	See comments in Amir and Volcani, 1965 and 1967, bromine content of test is bull at slaughter, 32 p/m (19 p/m control), semen Br content 23 p/m while on EDB decreased to control level of 7 p/m 6 mo after discontinuation, all bulls showed histologic changes.	Bondi and Alumot, 1967.
Do	3 bulls—2½ years old	2 mg/kg/d each day—unstated duration.	Time for appearance of sperm abnormalities "considerably longer" than 4 mg/kg/d on alternate day regimen and recovery was faster.	Do.
Do	26 bull "calves"—various ages.	0, 0.5, 1.0, 2.0, 3.0, 4.0 mg/kg/d until deformed sperm were seen.	Prolonged dosing at 2 mg/kg/d, or higher doses of 3 to 4 mg/kg/d for short time periods, produced reversible changes in sperm morphology and histology of testes, epididymus and seminal vesicles; Br content at doses of 3 to 4 mg/kg/d increased to 50 p/m over 20 p/m for controls, no effect was demonstrated at 0.5 and 1.0 mg/kg/d.	Do.

TABLE 4.—*Summary of reproductive effects of EDB in bulls*

Route of exposure	Sex and age	EDB concentration and duration	Observed effects	Reference
Oral EDB in mash	3 bull calves—age unstated.	50 to 60 pm EDB—3 mo.	No effect on semen, no increase Br. Content of testes.	Bondi and Alumot, 1967.
Oral KBr in solution in mash.	do	Br. equivalent to 2 mg EDB daily, 9 mo.	do	Do.
Oral capsule	4 bulls—age unstated.	2 mg/kg/d—duration unstated.	No effect on fructose or citric acid in seminal plasma between treated or control animals.	Do.
Do	19 bulls—15 to 24 mo. old.	4 mg/kg/d on alternate days—10 doses.	Abnormalities reached maximum 2 to 10 d posttreatment, effect was reversed 4 to 5 weeks posttreatment.	Amir, 1975.
Do	2 adult bulls	do	Abnormalities reached maximum within one week posttreatment, reversed incompletely at 16 weeks posttreatment.	Do.
Do	7 bulls—15 to 18 mo. old.	4 mg/kg/d on alternate days.	No significant changes in total nitrogen, amino acid, or lipoprotein content of spermatozoa 1 to 13 d posttreatment, significant changes in amino acid in sperm proteins and lipoproteins.	Amir and Lavon, 1976.
Do	3 bulls—4½ to 5½ yr old.	do	do	Do.

In a similar study on sperm morphology Amir and Lavon (1976) 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 epididymus respectively. Seventy percent of the fourth animal's sperm were misshapen in the caput epididymus and 15 percent were misshapen in the cauda epididymus. Three older bulls contains 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±128 micrograms/10^8 sperm to 1419±60 micrograms/10^8 sperm was apparent in the ejaculates.

In a study of EDB effects on 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 same bulls 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 88–100 percent abnormal sperm (table 5).

TABLE 5.—*Sperm charateristics 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)*

Days after start of treatment	Number of sperm collections	Percent abnormal spermatozoa (range)	Percent abnormalities			Sperm motility (percent motile cells) mean±SE
			Tail and acrosome defect-	Misshapen heads		
				Pear-shaped	Degenerating	
Bull No. 98:						
Pretreatment	4	4-9	90	8	2	65±2.9
0 to 14	7	3-14	90	7	3	66±1.7
16 to 21	3	25-98	96	3	1	25±17.6
23 to 39	7	90-100	11	7	82	3±4.8
42 to 53	4	13-57	63	7	30	55±8.7
64 to 75	4	9-14	88	7	5	65±2.9
Bull No. 573:						
Pretreatment	4	7-10	89	8	3	50±8.9
7 to 11	3	9-11	89	8	3	47±6.0
14 to 16	2	67-79	96	3	4	3±0.0
20 to 35	5	88-98	7	0	93	4±1.9
39 to 53	4	14-87	35	57	8	42±7.8
57 to 64	3	9-12	68	27	5	57±7.5
Bull No. 879:						
Pretreatment	4	5-17	83	13	4	42±11.6
0 to 45	7	6-12	85	52	3	41±6.3
17 to 21	3	77-85	95	3	2	9±5.3
25 to 35	5	100	3	42	55	5±3.7
38 to 52	5	14-72	56	39	5	53±2.0
56 to 61	3	6-10	81	15	4	47±1.7

In another sperm motility study, Amir (1975) reported marked decreases in sperm concentration for two adult bulls after EDB treatment. During the first two weeks of treatment the sperm concentrations for these bulls were 1330 and 1360×10^8 sperm cells/ml. One to two months after the start of treatment, these values had decreased to 6 and 9 ×10^8 sperm cells/ml. Sperm motility decreased from 72 percent and 45 percent early in treatment to no motile sperm one to two months after treatment. Five young bulls, also examined in this study, showed little effect on sperm concentration, but sperm motility decreased from 46 percent early in treatment to 8 per cent 17–35 days after the start of treatment (table 6.)

TABLE 6.—*Sperm concentration and motility in ejaculates of bulls after oral treatment with EDB (adapted from Amir, 1975)*

Test animal(s)	Days after start of treatment	Number of ejaculates	Sperm [1] concentration ($\times 10^6$/ml)	Motile [1] sperm (percent)
Five young bulls	0-16	34	805±58	46±3.4
	17-35	37	756±51	8±1.5
	36-67	35	810±57	44±3.3
Adult bull No. 240	0-15	5	1360±103	45±8.7
	18-29	4	725±66	0
	32-46	5	9±5.6	0
	52-121	13	416±66	22±3.6
	126-141	3	967±109	57±3.4
Adult bull No. 251	0-15	6	1330±11	72±1.7
	16-27	4	667±100	17±11.8
	32-63	9	6±4.3	0
	67-131	16	9±1.9	15±3.8
	162-172	2	350±50	5

[1] 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 (1973), 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.

(3) Rats and Mice. Several studies of EDB exposure by IP, oral, or inhalation routes, have shown only limited and temporary reproductive effects in rats. The studies are summarized in table 8. One study (Edwards, et al, 1970) showed a "transient" antifertility effect, through the spermatid stage of spermiogensis, 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, (1976) pregnant rats and mice were exposed to EDB at airborne concentrations of 32 ppm for 23 hr/d 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., decreased 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 7.—*Summary of reproductive effects of EDB in cows and sheep*

Route of exposure	Sex and age	EDB concentration and duration	Observed effects	Reference
Oral, capsule	4 mature cows	1,200 mg/d (about 2 mg/kg/d) 2 to 3 mo. of pregnancy through 3 lactation periods.	No detrimental effect on fertility or reproduction	Bondi and Alumot, 1967
Oral: in milk for 1 week; capsule thereafter?	4 heifers 2d mo of 1st pregnancy.	1,200 mg/d through 3 lactation periods.	Possible effect on fertility though gestation and parturition appeared normal.	Do.
Oral	6 female calves	Presumed to be 1,200 mg/d, from birth to 1st parturition.	No difference between controls and treated animals on fertility and reproduction.	Do.
Oral fumigated "concentrate".	3 6-mo-old ewes	About 300 p/m in concentrate duration unstated.	No apparent detrimental effects on reproductive ability	Do.
Oral added to "concentrate	do	do	do	Do.
Oral	2 adult rams	Unstated concentration, 4 mo.	Oral administration of unstated concentration "for more than 4 mo, up to their death from acute poisoning," no change in spermatozoa in the ejaculates or in the apididymus (cited from Amir, 1969).	Amir and Ben-David 1973.

TABLE 8.—*Summary of reproductive effects of EDB in rats*

Route of exposure	Sex and age	EDB concentration and duration	Observed effects	Reference
IP	Male rats—number unspecified.	10 mg/kg/d, 5 doses	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 pct of controls at 3d week posttreatment, to zero in 4th week, returned to normal at the 5th to 10th weeks.	Edwards et al., 1970.
Oral "dietary"	Male and female rats—number unspecified.	Daily doses up to 100 mg/kg body weight (25 to 30 pct of LD^{50}) unspecified.	No effect on growth, sexual development, and reproductive activity, failed to decrease fertility (based on unpublished data and personal communication).	Alumot, 1972 and Amir and Ben-David 1973.
Oral fumigated mash	20 female rats—3 weeks old.	100, 200 p/m in mash for approximately 8 to 16 mg/kg/d 12 weeks.	When mated to untreated males, no effect shown on fertility, gestation or parturition including repeated gestations; retreatment following two gestations showed no effect on "breeding capacity" (fertility).	Bondi and Alumot 1967.
Inhalation	18 pregnant rats and 10 nonpregnant.	32 p/m 23 h/d from day 6 to 15 of gestation.	Decreased food consumption and weight gain, decreased implants/dam, decreased fetuses/dam, decreased fetal weight, teratogenic effects-wavy ribs and hydrocephaly.	Short et al., 1976.

(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 1957 and 1958, 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 effect took eight weeks or longer to appear. Similar studies by Caylor and Laurent, (1960), and Fuller 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 fertility were noted in hens fed EDB-fumigated mash.

TABLE 9.—*Summary of reproductive effects of EDB in chickens*

Route of exposure	Sex and age	EDB concentration and duration	Observed effects	Reference
Oral fumigated grain and standard laying ration.	Laying hens	5 to 160 p/m 9 weeks	Significant reduction in egg weight and numbers (in 10 to 12 weeks at 5 to 7.5 p/m), irreversible cessation egg laying within 46 to 56 d at 90 p/m.	Bondi et al., 1955.
Oral fumigated oats	do	"Normal" fumigation several months before 23 d.	Reduced egg size	Bierer and Vickers, 1959.
Do	do	10X "normal" Dowfume ED-5 10 d.	Marked reduction in egg size and number lasting 6 weeks after return to clean rations.	Do.
Oral 50 pct. fumigated oats 50 pct. mash.	12-mo-old laying hens and "pullets."	Unknown concentration 10 weeks.	Steady decline in egg size over 10 weeks for hens, no increase in egg size for pullets.	Caylor and Laurent, 1960.
Oral fumigated oats	Laying pullets	0.5 to 1.5 cc/lb (mixture EDB, EDC, CT) 119 d.	Highly significant reduction in egg size (dose related), slow increase following removal to untreated feed, reversible decrease in egg numbers.	Do.
Oral fumigated corn	do	0.5 cc/lb above mixture 8 weeks.	Egg-size increase less than half of untreated controls	Do.
Oral solution directly into crops.	do	EDB, 0.5–20 mg/hen/d (mixture of EDB, CT, and EDC) 8 weeks.	No effect on egg production at or below 4.0 mg but significant effect at 8.0 mg, significant effect on egg weight at 0.5 mg (lowest level tested), body weight depressed slightly at maximum dose, egg porduction 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.	Fuller & Morris, 1962.
Oral fumigated oats	6-mo-old laying hens	EDB 0.5, 2.0, 8.0 mg/hen/d—12 weeks.	Significant reduction of egg weight at 0.5 mg dose (5 pm), production reduced at 8.0 mg dose (80 pm) only, no effect on feed consumption, body weight or mortality.	Fuller & Morris, 1963.
Oral directly into crops	do	0.5, 1.0, 2.0, 4.0, 8.0 mg/hen/d—12 weeks.	do	Do.
Oral feeding fumigated mash	3-d-old male cockerels	0, 80, 180 pm regulated feeding to level of 180 pm group—3 mo.	No observed effect on spermiogenic activity, spermatozoa count, or testes weight, comb weight declined.	Alumot et al. 1968.
Do	do	0, 150 ,300 pm unrestricted intake 12 mo.	At 150 pm weight gain reduced, at 300 pm significant reduction in growth and feed intake, comb weight declined but no effect on body weight, testes weight, and semen.	Do
Oral fumigated mash	Adult male	300 pm 105 d	No significant effect on semen, fertilization rate, or hatch ability of fertilized eggs.	Alumot et al., 1968.
Do	1-d-old female	0, 40 pm 2 X/d 3 mo	Significant decrease in egg weight, and egg production, normal onset of egg laying.	Do.
Do	1-yr-old laying hens	0, 100 pm 4 weeks	Significant reduction egg weight, and in fertilization rate, increase in number of dead embryos.	Do.
Oral in mash	Adult hens	0, 10 mg/hen/d. 2 to 8 weeks with various hormone treatments.	Treatment with various hormones had no effect on egg weight reduction, EDB did not affect pituitary hormone production.	Alumot and Mandel, 1969.
Do	Laying hens	100 pm until egg weight had decreased to ⅔ of control.	EDB reduced uptake of labeled proteins but increased number of follicles/ovary.	Alumot and Harduf, 1971.

b. *Human Exposure.* Human exposure from registered pesticide uses of EDB may occur by several routes: during application as a soil or commodity fumigant, from residues in or on raw agricultural commodities, or in processed grain commodities following commercial fumigation.

Human exposure to EDB from soil fumigation applications has been calculated from unpublished data (White and McAllister, 1977) and is presented in Table 2. Using data presented in part in Table 2, the Criteria and Evaluation Division has made a preliminary estimate that professional applicators, applying EDB for 30–40 days per year, would receive a total annual inhalation dose of 3–40 mg/kg and farmer-applicators, applying EDB for 7–10 days per year, would receive a total annual inhalation dose of 0.7–10 mg/kg/year (EPA, 1977).

Limited data from a citrus fumigation center in Florida (Going and Spigarelli, 1976) provides a preliminary estimate of exposure as shown in Table 10.

TABLE 10.—*Potential inhalation exposure at a citrus fumigation center (EPA, 1977).*

Sample location	ug/m³ EDB [a]	Potential inhalation exposure [b] (milligram per kilogram per day)
Office	3,100	0.425
Corridor	376	.052
Exit driveway	0.73	.001
½-mile south of site	29.3	.004

[a] Data from 13-h average air sample.
[b] Calculated by assuming a breathing rate of 1.2 m³/h for light activity, a body weight of 70 kg, an exposure duration of 8 h/d for 250 d and complete retention of all inhaled EDB.

The only estimates, based on actual data, of residues in raw or processed commodities are calculated from the reports of Wit, et al, (1969) and Litton Bionetics (1977). The estimate based on the Wit, et al, paper, calculated from the highest residue in whole wheat bread reported in that study, is 0.00045 mg/kg/day. The previously cited data from the Litton Bionetics (1977) study on 15 vegetable crops provide an estimate of 0.00006 mg/kg/day when the minimum detectable level (0.01 ppm) of the methodology used in that study is assumed to be the actual residue.

NIOSH considers that the EDB occupational exposure limit should be substantially lower than the current Federal standard of 20 ppm as an 8-hour time-weighted-average limit with a 30 ppm ceiling. NIOSH has recommended that the occupational exposure limit for EDB be reduced to a ceiling concentration of 1.0 mg/M³ (0.13 ppm) for any 15-minute sampling period. This is a decline of actual dose from 2212 mg/d (31.6 mg/kg/d) to 14.4 mg/d (0.21 mg/kg/d). This calculation of actual dosage assumes that the average 70 kg. human breathes 1.8 m³/hr when moderately active and that all the inhaled EDB is retained. It is also assumed that 1 ppm EDB=7:68 mg/m EDB and that a work day equals 8 hours. The NIOSH recommendation reduces by one two-hundred and thirtieth, the current federal ceiling for EDB (NIOSH, 1977).

TABLE 11.—*Summary of effects of EDB exposure in humans (adapted from NIOSH, 1977)*

Route of exposure	Concentration and duration	Observed effects	Reference
Respiratory (accidental)	70 g [a] single dose, during anesthesia.	Vomiting, abdominal pain, diarrhea, difficulty in breathing, restlessness, nervousness, dizziness, death by 44 h autopsy showed upper respiratory tract irritating, swelling of pulmonary lymph glands, muscular degeneration of heart, liver, and kidneys, hemorrhages in the trachea and along the mediastinum.	Marmetschke, 1910.
Do	Unknown repeated doses.	Irritation of conjunctiva, swelling of eyelids and glands under chin, skin sensitization.	Kochmann, 1928.
Dermal	55 pct [b], several hours.	Painful burning of feet with reddening and blisters between toes.	Pflesser, 1928.
Do	0.5 ml [c], 30 min	Painful inflammation, swelling, and blistering of skin.	Do.
Do	0.5 ml [c], 10 min	Heat sensation, slight burning, painful swelling and reddening of skin for next 24 h.	Do.
Do	0.5 ml [c], 30 min	Swelling, reddening, and itching, 30 min later.	Do.
Oral (possible suicide)	4.5 ml, single dose	Vomiting, abdominal pain, diarrhea, nausea, anuria, death by 54 h autopsy showed lung edema and congestion, reddening of intestinal mucosa, massive centrilobular liver necrosis, damage to tubular epithelium of kidneys.	Olmstead, 1960.

[a] Unknown portion of 70 g dose actually inhaled.
[b] Unknown quantity mixed with gage fluid.
[c] Skin washed with soap and water after exposure.

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)(i)(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 exposures. 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 that an accidental ingestion of EDB caused liver necrosis and kidney tubular damage.

Accidental human exposures to pesticides are recorded voluntarily through the EPA Pesticide Episode Review System (PERS). A search of the PERS files covering the period 1966– September 1976, identified 23 reports involving EDB as a pesticide, either alone or in combination with other chemicals (EPA, 1976). Of the 23 episodes, 16 reports cited 20 humans as the affected entities and the other seven listed environmental contamination as the only impact. Of the 20 humans involved, 8 were engaged in agriculture, 3 were at home (including 1 child), 2 were involved in "loading dock" accidents, and 1 each involved in commercial pest control, warehousing, a nut processing plant, an unspecified industry, and an unspecified job site. 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)(i)(A) or (B), 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.

TABLE 12.—*Acute oral toxicity of EDB to various test organisms*

Species	Sex or size	LD50 (parts per million)	TLm [a]	Reference
Rats	M	146		Rowe et al., 1952
Do	F	117		Do.
Mice	F	420		Do.
Rabbits	F	55		Do.
Guinea pigs	Mixed	110		Do.
Chicks	do	79		Do.
LM, bass	Fingerlings		25 (24 h) [b]	Davis and Hardcastle, 1959.
Do	do		15 (24 h) [c]	Do.
Do	do		15 (48 h) [c]	Do.
Bluegill	do		25 (24 h) [b]	Do.
Do	do		18 (24 h) [c]	Do.
Do	do		18 (48 h) [b]	Do.
Carp	5 cm		2.8 (48 h)	Yoshida, 1972.
Japanese goldfish	4 cm		>40 (48 h)	Do.
Killifish	2.5 cm		>40 (48 h)	Do.
Loach	10 cm		160 (48 h)	Do.
Toad	Tadpoles		68 (48 h)	Do.
American crayfish	11 cm		10–40 (72 h)	Do.
Water flea (spp.)	F (adult)		>40 (3 h)	Do.

[a] TLm = Median tolerance limit.
[b] Soft water, 19.0 p/m hardness.
[c] Hard water, 77.1 p/m 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 severe 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 these 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.

Rabbits, monkeys, rats and guinea pigs, subjected to daily seven-hour exposures, five days a week for approximately six months tolerated 25 ppm without adverse effects. A concentration of 50 ppm was not well tolerated by any of the four species. The most important toxic effects resulting from repeated exposures were irritation of the lungs and injury to the liver and kidneys (Rowe, et al, 1952).

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. There appears to be a synergistic effect of these mixtures with "pure" EDB being less toxic than all mixtures tested (Adams, et al, 1952; McCollister, et al, 1956; Rowe, et al, 1954).

The NIOSH criteria document (1977) cites an unpublished study by Ter Haar in which ten female and ten male B6C3F1 mice were exposed in inhalation chambers at each of 3 concentrations (3, 15, 75 ppm) of EDB for 6 hrs/d, 5 d/wk for 13 weeks. Ter Haar reported 40% mortality among the male mice at 3 ppm during the 13 weeks and one moribund female in the fifth week at 75 ppm; all other mice survived. Histopathology in respiratory tissues was reported at the 75 ppm level only.

TABLE 13.—*Summary of effects of multiple EDB inhalation exposures in animals (adapted from data of Rowe, et al, 1952)*

Species	Sex	Total number of animals used	Concentration, number, and duration of exposure	Observed effects
Rats	F	10	10 ppm, 7 hr/d x 7 exposures in 9 d.	Weight loss, increased weight of kidneys, lungs and liver; cloudy swellings of liver and congestion of spleen; lung irritation; blood in stomach; 3/10 deaths.
Do	F	20	50 ppm, 7 hr/d x 63 exposures in 91 d.	Increased weight of kidneys, lungs, and liver
	M	20		decreased weight of testes and spleen.
Do	F	18	50 ppm, 7 hr/d x 12 exposures in 16 d.	Significant increase in liver and kidney weight but no histopathology.
Do	F	20	25 ppm, 7 hr/d x 151	13/40 deaths mostly due to pneumonia.
	M	20	exposures in 213 d.	
Do	F	23	25 ppm, 7 hr/d x 13 exposures in 17 d.	No adverse effects reported.
Guinea pigs	F	8	50 ppm, hr/d 7 x 57	Weight loss; decreased rate of growth; congestion
	M	8	exposures in 80 d.	and parenchymatous degeneration of kidneys; fatty degeneration of liver; no effect on testes reported.
Do	F	7	50 ppm, 7 hr/d x 13 exposures in 17 d.	Depressed weight gain; no other adverse effect.
Do	F	8	25 ppm (mg/kg), 7	6/16 deaths because of pulmonary infections.
	M	8	hr/d x 145 exposures in 205 d.	
Do	F	8	25 ppm, 7 hr/d x 13 exposures in 17 d.	No adverse effects reported.
Rabbits	F	4	100 ppm, 7 hr/d x 2 to 4 exposures in 2 to 4 days.	Fatty degeneration of liver, 2 deaths at 2d day, 1 on 3d day.
Do	F	3	50 ppm, 7 hr/d x 59	Small increase of liver and kidney weights.
	M	1	exposures in 84 d.	
Do	F	1	25 ppm, 7 hr/d x 152	No adverse effects reported.
	M	3	exposures in 214 d.	
Monkeys	F	1	50 ppm, 7 hr/d x 49	Increased weight and slight fatty degeneration
	M	1	exposures in 70 d.	of liver.
Do	F	1	25 ppm, 7 hr/d x 156	No adverse effects reported.
	M	1	exposures in 220 d.	

Schlinke (1969 and 1970) reported on the effects of oral administration of EDB to sheep, calves and chickens. His data is summarized in Table 14.

TABLE 14.—*Oral toxicity of EDB to sheep, calves, and chickens (adapted from Schlinke, 1969 and 1970)*

Species (N)	Dosage mg/kg/b.w.	Observed effects
Sheep (1)	50.0	Blood cholinesterase activity (CE) 83 pct of pretreatment value, died in 3 d.*
Do	25.0	No ill effects, CE-81 pct, 6 hr.
Do	25.0	No effect on CE, died in 2d.*
Do	10.0	No ill effects, EC-69 pct, 6 hr.
Calf (1)	50.0	CE—87 pct, 48 hr, died in 3 d.*
Do	25.0	No ill effects, CE—80 pct, 6 hr.
Do	10.0	No ill effects, no effect on CE.
Chicken (5)	200, 10 d	4 died after 2d does, 1 after 3d dose, anorexia and depression, excess pericardial fluid and liver congestion.
Do	100, 10 d	No ill effects, slightly reduced weight gain.
Do	50, 10 d	No ill effects.

*Animals that died showed signs of "stiffness, 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 pig and rats, single inhalation and dermal exposures;

Lucas (1928), rabbits, single inhalation exposures;

Kochmann (1928), rabbits and cats, multiple inhalation exposures;

Glaser and Frisch (1929), guinea pigs, multiple inhalation exposures;

Kistler and Luckhardt (1929), dogs, single intravenous, inhalation and oral exposures;

Merzbach (1929), dogs, single inhalation exposures;

Aman, et al (1946), 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 and animal studies 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 reductions in nontarget organisms or endangered species, would be exceeded.

2. *Teratogenicity.* Under the criteria for other chronic or delayed toxic effects in § 162.11(a)(3)(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 RPAR 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 32 ppm for 23 hr/d 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 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 rats and mice from EDB exposure, e.g., decreased implants per dam, 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 be an indication that, if the dose is increased, more teratogenic effects may be seen. There was an increase in fourth ventricle hydrocephaly but the significance was less than 0.10. Incidence of 14th ribs seen in all groups was within normal values for rats.

In mice third ventricle hydrocephaly occurred in both the EDB treated and food-restricted groups. When compared to untreated controls, EDB treated mice had an increased incidence of delayed and incompletely ossified bones. However when the EDB mice and restricted diet mice are compared in this regard, a Fisher'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.

Since 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.

C. LACK OF EMERGENCY TREATMENT CRITERIA

Available information in the EDB criteria document (NIOSH, 1977) suggest that first aid and remedial procedures are available; therefore the criteria in 162.11(a)(3)(iii) are not met or exceeded.

IV. REQUEST FOR INFORMATION

A. ACUTE TOXICITY CRITERIA—HUMANS

Sufficient data nor information are not available to determine whether this risk criteria is met or exceeded.

B. OTHER CHRONIC EFFECTS CRITERIA

The Agency has determined that a data gap exists and seeks further information on the teratogenic effects of EDB exposure. Teratology studies with at least three dose levels are needed in two species via oral and inhalation routes to properly evaluate EDB's teratogenic potential.

C. HUMAN EXPOSURE DATA

The Agency lacks sufficient accurate data on levels of EDB to which humans may be exposed. There is a 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 spot fumigation operations. 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

Adams, E. M., R. L. Hollingsworth, H. C. Spencer, and D. D. McCollister. 1952. Toxicity study of a spot fumigant. Mod. Sanit. 4(7): 39–41, 70.

Alper, M. D., and B. N. Ames. 1975. Positive selection of mutants with deletions of the *gal-chl* region of the *Salmonella* chromosome as a screening procedure for mutagens that cause deletions. J. Bact., 121(1):259–266.

Alumot (Olomucki), E. 1972. The mechanism of ethylene dibromide action on laying hens. Residue Reviews 41:1–11.

Alumot, E., and E. Chalutz, 1972. Fumigation of citrus fruit with ethylene dibromide: Desorption of residues and ethylene evolution. Pestic. Sci. 3:539–544.

Alumot (Olomucki), E., and Z. Harduf. 1971. Impaired uptake of labeled proteins by the ovarian follicles of hens treated with ethylene dibromide. Comp. Biochem. Physiol. 39B:61–68.

Alumot (Olomucki), E., and E. Mandel. 1969. Gonadotropic hormones in hens treated with ethylene dibromide. Poult. Sci. 48(3): 957–960.

Alumot (Olomucki), E., E. Nachtomi, O. Kempenich-Pinto, E. Mandel, and H. Schin-

dier. 1968. The effect of ethylene dibromide in feed on the growth, sexual development and fertility of chickens. Poult. Sci. 47(6): 1979–1985.

Aman, J., L. Farkas, M. H. Ben-Shamai, and M. Plaut. 1946. Experiments on the use of ethylene dibromide as a fumigant for grain and seed. Ann. Appl. Biol. 33:389–395.

Amir, D. 1969. The action of ethylene dibromide on rams. In: Mechanisms of Halogenated Hydrocarbons used as Fumigants on Animals. First Annual Report to USDA (submitted by A. Bondi and E. Alumot, Project No. A10–MG–8).

Amir, D. 1973. The sites of the spermicidal action of ethylene dibromide in bulls. J. Reprod. Fert. 35(3):519–525.

Amir, D. 1975. Individual and age differences in the spermicidal effect of ethylene dibromide in bulls. J. Reprod. Fert. 44:561–565.

Amir, D., and E. Ben-David. 1973. The pattern of structural changes induced in bull spermatozoa by oral or injected ethylene dibromide (EDB). Ann. Biol. Anim. Biochem. Biophys. 13(2):165–170.

Amir, D., and V. Lavon. 1976. Changes in total nitrogen, lipoproteins and amino acids in epididymal and ejeculated spermatozoa of bulls treated orally with ethylene dibromide. J. Reprod. Fert. 47(1):73–76.

Amir, D., and R. Volcani. 1965. Effect of dietary ethylene dibromide on bull semen. Nature 206(4979):99–100.

Amir, D., and R. Volcani. 1967. The effect of dietary ethylene dibromide (EDB) on the testes of bulls. Fert. Steril., 18(1):144–147.

Beckman, H., D. G. Crosby, P. T. Allen, and C. Mourer. 1967. The inorganic bromide content of foodstuffs due to soil treatment with fumigants. J. Food Sci. 32(1):138–140.

Berck, B. 1974. Fumigant residues of carbon tetrachloride, ethylene dichloride, and ethylene dibromide in wheat, flour, bran, middlings, and bread. J. Agr. Fd. Chem. 22 (6):977–984.

Bieloral, R. and E. Alumot. 1965. Determination of ethylene dibromide in fumigated feeds and foods by gas-liquid chromatography. J. Sci. Fd. Agric. 16:594–596.

Bierer, BB., and C. Vickers. 1959. The effect on egg size and production of fungicide treated and fumigated grains fed to hens. J. Amer. Vet. Med. Assoc. 134(10):452–453.

Bondi, A., and E. Alumot. 1967. Effect of ethylene dibromide fumigated feed on animals. Final Report of Research Conducted Under Grant Authorized by U.S. Public Law 480, submitted by Faculty of Agriculture, Hebrew University, Rehovot, Israel, Project No. A 10 AMS–4(a), Grant No. FG–Is–117, Report Period: Aug. 1961–Aug. 1966. 81 pp., Plus Appendix: 5th Annual Report, XVI pp.

Bondi, A., and E. Alumot. 1974. Mechanism of action of halogenated hydrocarbons used as fumigants on animals. Final Report submitted to USDA, Faculty of Agriculture and Agricultural Research Organization, Rehovot, Israel, Feb. 1974, 125 pp.

Bondi, A., E. Olomucki, and M. Calderon. 1955. Problems connected with ethylene dibromide fumigation of cereals. II—Feeding experiments with laying hens. J. Sci. Fd. Agri. 6:600–602.

Brem, H., J. E. Coward, and H. S. Rosenkranz. 1974a. 1,2-Dibromethane, effect on the metabolism and ultrastructure of *Escherichia coli*. Biochem. Pharmacol. 23(16):2345–2347.

Brem, H., A. B. Stein, and H. S. Rosenkranz. 1974 b. The mutagenicity and DNA-modifying effect of haloalkanes. Cancer Res. 34: 2576–2579.

Brown, A. L., J.J. Jurinak; and P. E. Martin. 1958. Relation of soil properties to bromide uptake by plant following soil fumigation with ethylene dibromide. Soil Sci. 86: 136–139.

Buselmaier, W., G. Rohrborn, and P. Propping. 1972. Mutagenitats-Untersuchungen mit Pestiziden im Host-mediated assay und mit dem Dominanten Letaltest an der Maus. (Mutagenicity studies with pesticides by host-mediated assay and the dominant lethal test on mice.) Biol. Zbl. 91:311–325.

Bussel, J., and S. S. Kamburov. 1976. Ethylene dibromide fumigation of citrus fruit to control the Mediterranean fruit fly, *Ceratitis capitata* (Wied.). J. Amer. Soc. Hort. Sci. 101(1):11–14.

Castro, C. E., and N. O. Belser. 1968. Biodehalogenation. Reductive dehalogenation of the biocides ethylene dibromide, 1,2-dibromo-3-chloropropane, and 2,3-dibromobutane in soil. Envir. Sci. Tech. 2(10): 779–783.

Castro, C. E., and R. A. Schmitt. 1962. Direct elemental analysis of citrus crops by instrumental neutron activation. A rapid method for total bromide, chloride, manganese, sodium and potassium residues. Agri. Fd. Chem. 10(3):236–239.

Caylor, J., and C. Laurent. 1969. The effect of a grain fumigant on egg size of the white leghorn hens. Poult. Sci. 39:216–219.

Chalutz, E., E. Alumot, and Y. Carmi. 1972. Fumigation of citrus fruit with ethylene dibromide (1970/71). (In Hebrew), Preliminary Report 710, Div. Sci. Publication, Dept. of Food Storage and Technology, The Volcani Institute of Agriculture Research, Bet Dagon Israel. 12 pp.

Chalutz, E., M. Schiffmann-Nadel, J. Waks, E. Alumot, Y. Carmi, and J. Bussel. 1971. Peel injury to citrus fruit fumigated with ethylene dibromide. J. Amer. Soc. Hort. Sci. 96 (6): 782–785.

Clive, D. 1973. Recent developments with the L5178Y TK heterozygote mutagen assay system. Envir. Heal. Perspect. 6:119–125.

Code of Federal Regulations. 21. Food and Drugs. Parts 10 to 199. Revised Apr. 1, 1976.

Code of Federal Regulations. 21. Food & Drugs. Parts 500 to 599. Revised April 1, 1976.

Code of Federal Regulations. 40. Protection of Environment. Parts 100 to 399. Revised July 1, 1976.

Coggiola, I. M., and F. E. Huelin. 1964. The absorption of 1,2-dibromoethane by oranges and by materials used in their fumigation. Agri. Fd. Chem. 12(2):192–196.

Davis, J. T., and W. S. Hardcastle. 1959. Biological assay of herbicides for fish toxicity. Weeds. 7:397–404.

De Serres, F. J., and H. V. Malling. 1970. Genetic analysis of ad–3 mutants of *Neurospora crassa* induced by ethylene dibromide—a commonly used pesticide. Newl., Envir. Mut. Soc. 3:36–37.

Dow Chemical, U.S.A. 1977. Letter to Dowfume W–85 and EDB Tech customers. Dated 8/5/77.

Dumas, T. 1973. Inorganic and organic bromide residues in foodstuffs fumigated with methyl bromide and ethylene dibromide at low temperatures. J. Agric. Fd. Chem. 21(3):433–436.

Dumas, T., and E. J. Bond. 1975. Bromide residues in apples fumigated with ethylene dibromide. J. Agric. Fd. Chem. 23(1):95–98.

Edwards, K., H. Jackson, and A. R. Jones. 1970. Studies with alkylating esters—II. A chemical interpretation through metabolic studies of the antifertility effects of ethylene dimethanesulphonate and ethylene dibromide. Biochem. Pharmacol. 19:1783–1789.

Ehrenberg, L., S. Osterman-Golkar, D. Singh, and V. Lundqvist. 1974. On the reaction kinetics and mutagenic activity of methylating and [beta]-halogenethylating gasoline additives. Rad. Bot. 15(3):185–194.

EPA. 1976. Episode summary for reports involving ethylene dibromide. Report No. 85, Pesticide Episode Response Branch, OD, OPP, EPA. 9 pp.

EPA. 1977. Carcinogen Assessment Group (CAG) memorandum, E.L.A., 8/26/77.

EPA. 1977. Criteria and Evaluation Division memorandum, D.J.S., 8/30/77, and Analysis of Human Exposure to Ethylene Dibromide. (Draft) Beusch, George J. and David J. Severn, EPA, Chemistry Branch, Criteria and Evaluation Division, Office of Pesticides Programs. Sept. 21, 1977.

EPA. 1977. EDB Mutagenicity., Memo from Dr. R. Fertel, OSPR, to Anthony Inglis, EDB Project Manager, dated 8/10/77 with attachments.

Epstein, S. S., E. Arnold, J. Andrea, W. Bass, and Y. Bishop. 1972. Detection of chemical mutagens by the dominant lethal assay in the mouse. Toxicol. and Appl. Pharmacol., 23:288–325.

Fahrig, R. 1974. Comparative mutagenicity studies with pesticides. International Agency for Research on Cancer, Scientific Publications No. 10:161–181.

Fishbein, L. 1976. Industrial mutagens. I. Halogenated aliphatic derivatives. Mut. Res. 32(2):267–307.

Fuller, H. L., and G. K. Morris. 1962. A study of the effects of ethylene dibromide fumigant components on egg production. Poult. Sci. 41:645–654.

Fuller, H. L., and G. K. Morris. 1963. The comparative toxicity of ethylene dibromide when fed as fumigated grain and when administered in single daily doses. Poult. Sci. 42:508–514.

Glaser, E., and S. Frisch. 1929. Ein Beitrag zur Kenntnis der Wirkung technisch und hygienisch wichtiger Gase und Dampfe auf den Oganismus. Uber gebromte Kohlenwasserstoffe der Fettreihe. [The effect of technically and hygienically important gases and vapors upon the organism. Brominated hydrocarbons of the aliphatic series.] (German) Arch. Hyg. 101:48–64.

Going, J., and J. L. Spigarelli. 1976. Sampling and analysis of selected toxic substances. Task IV—Ethylene dibromide. EPA 560/6–76–021, EPA, Office of Toxic Substances, 156 pp.

IARC. 1977. IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Man: Some fumigants, the herbicides 2,4–D and 2,4,5–T, chlorinated dibenzodioxins and miscellaneous industrial chemicals. International Agency for Research on Cancer. Vol. 15, pp. 195–209.

Kistler, G. H. and A. B. Luckhardt. 1929. The pharmacology of some ethylene-halogen compounds. Curr. Res. Anesth. Analg. 8:65–74.

Kochmann, M. 1928 [Possible industrial poisonings with ethylene dibromide.] (German). Munchener Medizinische Wochenschrift. 75(13): 1334–1336.

Kristofersson, U. 1974. Genetic effects of some gasoline additives. Hereditas 78:319. (Abstract).

Litton Bionetics Inc. 1976. Development of a method for the determination of low level residues of ethylene dibromide. Final report submitted to Great Lakes Chemical Corp.; LBI Project No. 2675, October 14, 1976. 11 pp.

Litton Bionetic Inc. 1977. Determination of residues of ethylene dibromide in crop samples. Final report submitted to Great Lakes Chemical Corp., LBI Project No. 2711, Feb. 9, 1977. 33 pp., and letter dated July 15, 1977, to Director, Research and Development, Great Lakes Chemical Corp.

Lucas, G. W. H. 1928. A study of the fate and toxicity of bromide and chlorine containing anesthetics. J. Pharmacol. 34:223–237.

Malling. H. V. 1969. Ethylene dibromide: A potent pesticide with high mutagenic activity. Genetics 61:539. (Abstract).

Marmetschke, G. 1910. [On lethal ethyl bromide and ethylene bromide intoxication.] (German). Vierteljarhesschrift fur Gerichtliche Medizin und Oeffentliches Sanitatswesen. 40(3):61–76.

McCann, J., E. Choi, E. Yamasaki, and B.N. Ames. 1975. Detection of carcinogens as mutagens in the *Salmonella microsome* test: Assay of 300 chemicals. Proc. Nat. Acad. Sci. 72(12):5135–5139.

McCollister, D. D., R. L. Hollingsworth, F. Oven, and V. K. Rowe. 1956. Comparative inhalation toxicity of fumigant mixtures. A.M.A. Arch. Ind. Heal. 13:1–7.

McHenry, M. V. 1972. The behavior of pesticides containing 1,3-dichloropropene and 1,2-dibromoethane in soils. Dissertation submitted for Doctor of Philosophy Degree in Plant Pathology, University of California, Riverside, California. 110 pp.

McMahon, B. 1971. Analysis of commercially fumigated grains for residues of organic fumigants. J. Assoc. Offic. Agric. Chem. 54(4):964–965.

Meneghini, R. 1974. Repair replication of opposum lymphocyte DNA: Effect of compounds that bind to DNA. Chem.-Biol. Interactions. 8:113–126.

Merzbach, L. 1929. [The pharmacology of methyl bromide and related compounds.] (German). Z. Ges. Exp. Med. 63:383–392.

Nachtomi, E. 1970. The metabolism of ethylene dibromide in the rat. The enzymatic reaction with glutathione *in vitro* and *in vivo*. Biochem. Pharmacol. 19:2853–2860.

Nachtomi, E., E. Alumot, and A. Bondi. 1966. The metabolism of ethylene dibromide in the rat. I. Identification of detoxification products in urine. Israel J. Chem. 4:239–246.

Nauman, C. H., A. H. Sparrow, and L. A. Schairer. 1976. Comparative effects of ionizing radiation and two gaseous chemical mutagens on somatic mutation induction in one mutable and two non-mutable clones of *Tradescantia*. Mut. Res. 38(1):53–70.

NIOSH. 1977. Criteria for a recommended standard: Occupational exposure to ethylene dibromide. No. 77–221, National Institute for Occupational Safety and Health, PHS, US DHEW. 208 pp.

Olmstead, E. V. 1960. Pathological changes in ethylene dibromide poisoning. A.M.A. Arch. Ind. Health 21:45/525–49/529.

Olson, W.A., R.T. Habermann, E.K. Weisburger, J.M. Ward, and J.H. Weisburger. 1973. Induction of stomach cancer in rats and mice by halogenated aliphatic fumigants. J. Nat. Cancer Inst., 51(6):1993–1995.

Pflesser, G. 1928. [Skin-damaging effect of ethylene dibromide—A constituent of the liquid from remote water gauges.] (German). Arch. Gewerbepathol. Gewerbehyg. 8:591–600.

Powers, M. B., R. W., Voelker, N. P. Page, E. K. Weisburger, and H. F. Kraybill, 1975. Carcinogenicity of ethylene dibromide (EDB) and 1,2,-dibromo-3-chloropropane (DBCP) after oral administration in rats and mice. Toxicol. Appl. Pharmacol., 33(1):171–172. (Abstract).

Rowe, V. K., R. L. Hollingsworth, and D. D. McCollister. 1954. Toxicity study of a grain fumigant (Dowfume EB–5). Agric. Fd. Chem. 2(26):1318–1323.

Rowe, V. K., H. C. Spencer, D. D. McCollister, R. L. Hollingsworth, and E. M. Adams. 1952. Toxicity of ethylene dibromide determined on experimental animals. A.M.A. Arch. Ind. Hyg. Occup. Med. 6(2):158–173.

Schlinke, J. C. 1969. Toxicologic effects of five soil nematocides in cattle and sheep. J.A.V.M.A. 155(8):1364–1366.

Schlinke, J. C. 1970. Toxicologic effects of five soil nematocides in chickens. Amer. J. Vet. Res. 31(6):1119–1121.

Short, R. D., Jr., J. L. Minor, B. Ferguson, T. Unger, and C-C. Lee. 1976. Toxicity studies of selected chemicals, Task I: The developmental toxicity of ethylene dibromide inhaled by rats and mice during organogenesis. Final Report, No. EPA–560/6–76–018, U.S. EPA, Office of Toxic Substances, 11 pp.

Sparrow, A. H., and L. A. Schairer. 1974. The effects of chemical mutagens (EMS, DBE) and specific air pollutants (O_3, SO_2, NO_2, N.O) 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.

Sparrow, A. H., L. A. Schairer, and R. Villalobos-Pietrini. 1974. Comparison of somatic mutation rates induced in *Tradescantia* by chemical and physical mutagens. Mut. Res. 26(4):265–276.

SRI. 1975. Chemical Economics Handbook. Stanford Research Institute, Menlo Park, Calif. Production Data–EDB, 648.5054W, 650.-5020 B&C, Jan. 1975, Supplemental Data p. 209, June 1977, Kevin Allison, compiler.

SRI. 1977. A study of industrial data on candidate chemicals for testing. Stanford Research Institute, Report prepared for Office of Toxic Substances, EPA–560/5–77–006 (5 chapters and appendices), pp. 3–146 thru 3–151 and Bibliography.

Thomas, B. G. H., and W. P. Yant. 1927. Toxic effects of ethylene dibromide. Pub. Heal. Rpt. 42:370–375.

Thomason, I., C. Castro, R. Baines, and R. Mankau. 1971. What happens to soil fumigants after nematode control? Calif. Agric., 25(9):10–12.

Vogel, E., and J. L. R. Chandler, 1974. Mutagenicity testing of cyclamate and some pesticides in *Drosophila melanogaster*. Experientia. 30(6):321–323.

Von Oettingen, W. F. 1958. The halogenated hydrocarbons: Toxicity and potential dangers. Pub. Heal. Serv. Rpts. No. 414, p. 152.

Ward, J. M., and R. T. Habermann. 1974. Pathology of stomach cancer in rats and mice induced with the agricultural chemicals ethylene dibromide and dibromochloropropane. Bull. Pharmacol. Environ. Pathologists 2(2):10–11.

Weisburger, E. K. 1977. Carcinogenicity studies on halogenated hydrocarbons. (Draft manuscript), 10 pp. plus 14 table pages. To appear in Environ. Health Perspec. Summer, 1978.

White, L. V., and D. McAllister. 1977. Soil fumigant applicator exposure to ethylene dibromide. Unpublished manuscript. 7 pp.

Wit, S. L., A. F. H. Besemer, H. A. Das, W. Goedkoop, F. E. Loosjes, and E. K. Mepelink. 1969. Results of an investigation on the regression of three fumigants (carbon tetrachloride, ethylene dibromide and ethylene dichloride) in wheat during processing to bread. Report No. 36/69 Tox., National Institute of Public Health, Bilthoven, Netherlands. 21 p.

Yoshida, K. 1972. [Toxicity of pesticides to some water organisms.] (Japanese). Bull. Agric. Chem. Inspect. Stn., No. 12:122–128.

08/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

REGISTRANT *NAME AND ADDRESS*

* 000146 THOMPSON-HAYWARD CHEMICAL COMPANY
P O BOX 2383
KANSAS CITY KS 66110

********** PRODUCT NAME **********

**00097* DE-PESTER WEEVIL KILL

**00143* DE PESTER FUMIGANT NO. 2

**00195* SECT FUMIGANT

**00287* DE-PESTER GRAIN CONDITIONER AND WEEVIL KILLER

**00859* T-H VAULT FUMIGANT

**00991* T-H GRAIN FUMIGANT NO. 7 WEEVIL KILLER AND GRAIN CONDITIONER

**01041* T-H E. D. B. 40

**01087* T-H EDB 85

REGISTRANT *NAME AND ADDRESS*

* 000168 WASATCH CHEMICAL DIVISION ENTRADA IND INC
P O BOX 6219
SALT LAKE CITY UT 84106

********** PRODUCT NAME **********

**00258* ETHYLENE DIBROMIDE BARK BEETLE SPRAY FORMULA A

**00259* ETHYLENE DIBROMIDE BARK BEETLE SPRAY FORMULA B

**00368* ETHYLENE DIBROMIDE BARK BEETLE SPRAY FORMULA C

**00425* ETHYLENE DIBROMIDE SPRAY #2 EMULSIBLE

08/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

REGISTRANT *NAME AND ADDRESS*

* 000230 FMC CORPORATION
INDUSTRIAL CHEM. DIV.
2000 MARKET ST.
PHILA. PA 19103

********** PRODUCT NAME **********

**00035* SOILFUME 25

REGISTRANT *NAME AND ADDRESS*

* 000239 CHEVRON CHEMICAL COMPANY
ORTHO DIVISION 940 HENSLEY WAY
RICHMOND CA 94801

********** PRODUCT NAME **********

**00833* ORTHO GRAIN FUMIGANT (73)

REGISTRANT *NAME AND ADDRESS*

* 000240 DALY HERRING COMPANY
PO BOX 428
KINSTON NC 28501

********** PRODUCT NAME **********

**00098* BACCO FUMIGANT 85

****

REGISTRANT *NAME AND ADDRESS*

* 000279 FMC CORP.
AGRICULTURAL CHEM DIV.
2000 MARKET STREET
PHILADELPHIA, PA. 19103

********** PRODUCT NAME **********

**00480* NIAGARA SOILFUME 85 CODE 285

**01730* NIAGARA NEW FIELDFUME NEMATICIDE

****

REGISTRANT *NAME AND ADDRESS*

* 000413 BARTELS & SHOBES CHEMICAL COMPANY
1400-02 ST LOUIS AVE
KANSAS CITY, MO 64101

********** PRODUCT NAME **********

**00051* EICNEEB BRAND GRAIN FUMIGANT

****

REGISTRANT *NAME AND ADDRESS*

* 000445 TECHNE CORPORATION
C/O REGULATORY AFFAIRS DEPT, FARMLAND IND., INC.
P. O. BOX 7305
KANSAS CITY, MO 64116

********** PRODUCT NAME **********

**00070* SURE DEATH BRAND MILLFUME "66"

**00505* SURE DEATH BRAND MILLFUME NO. 2

****

REGISTRANT *NAME AND ADDRESS*

* 000464 DOW CHEMICAL U S A
PO BOX 1706
MIDLAND MI 48640

********** PRODUCT NAME **********

**00032* DOWFUME EB-15 INSECTICIDE

**00097* DOWFUME EB-5 EFFECTIVE GRAIN FUMIGANT

**00121* DOWFUME W-85

**00171* DOWFUME C

**00181* SEEFUME

**00193* DOWFUME F

**00195* DOW ETHYLENE DIBROMIDE

**00216* DOWFUME EB-59

**00257* DOBLONE

**00378* DOW DOWFUME EB-7C SOIL FUMIGANT FOR MILLING MACHINERY

**00424* EDB 85

**00427* ETHYLENE DIBROMIDE

**00438* DOWFUME EB-30 FUMIGANT FOR FARM OR REPACKAGING PURPOSE ONLY

**00444* DOW FUME (E) EB-30

REGISTRANT *NAME AND ADDRESS*

* 000476 STAUFFER CHEMICAL COMPANY LABELING & REGISTRATION
DEPT 1200 SOUTH 47TH ST
RICHMOND, CA 94804

********** PRODUCT NAME **********

**01543* TRIFUME A GRAIN FUMIGANT

REGISTRANT *NAME AND ADDRESS*

* 000485 INDUSTRIAL FUMIGANT COMPANY
601 EAST 159TH ST.
OLATHE, KS 66061

********** PRODUCT NAME **********

**00006* INFUCO DIBROME SPOT FUMIGANT

**00015* INFUCO 50-50 SPOT FUMIGANT

**00016* INFUCO TWO-IN-ONE GRAIN FUMIGANT

REGISTRANT *NAME AND ADDRESS*

* 000491 SELIG CHEMICAL INDUSTRIES THE
DIV NATIONAL SERVICE INDS INC PO BOX 43106
ATLANTA GA 30336

********** PRODUCT NAME **********

**00082* SOLIG'S GRAIN FUMIGANT NO. 15

**00154* GRAINFUME MB

**00190* SELIG'S GRAIN STORAGE FUMIGANT

REGISTRANT *NAME AND ADDRESS*

* 000550 VAN WATERS & ROGERS DIV OF UNIVAR
2256 JUNCTION AVENUE
SAN JOSE, CA 95131

********** PRODUCT NAME **********

**00104* MACLEAN'S S-T-I

REGISTRANT *NAME AND ADDRESS*

* 000821 MAERTEL MALTER COMPANY
2840 FOURTH AVE SOUTH
MINNEAPOLIS MN 55408

********** PRODUCT NAME **********

**00002* TRI-X GARMENT FUMIGANT

REGISTRANT *NAME AND ADDRESS*

* 000876 VELSICOL CHEMICAL CORP
341 EAST OHIO STREET
CHICAGO IL 60611

********** PRODUCT NAME **********

**00259* PESTMASTER FUMIGANT EDB-85

**** PRODUCT SEARCH LISTING **** PAGE 7

08/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

REGISTRANT *NAME AND ADDRESS*

* 000939 LEITTE E E COMPANY
BOX 180 1060 6TH ST
LAKE ELMO ST PAUL MN 55042

********** PRODUCT NAME **********

**00025* LEITTE SPOTFUME 60

REGISTRANT *NAME AND ADDRESS*

* 001015 DOUGLAS CHEMICAL COMPANY
BOX 297
LIBERTY MO 64068

********** PRODUCT NAME **********

**00010* DOUGLAS TETRAFUME WEEVIL KILLER & GRAIN CONDITIONER

**00020* DOUGLAS TETRAFUME* WEEVIL KILLER AND GRAIN CONDITIONER

**00022* DOUGLAS SUPPORATC #3 GRAIN AND MILL SPOT FUMIGANT

REGISTRANT *NAME AND ADDRESS*

* 001421 DETTELBACH CHEMICALS CORP
ATTN WARD A R 4161 PEACHTREE RD NE
ATLANTA GA 30319

********** PRODUCT NAME **********

**00164* CREST 15 GRAIN FUMIGANT

**** PRODUCT SEARCH LISTING **** PAGE 8

08/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

REGISTRANT *NAME AND ADDRESS*

* 001553 MCRAE INC
PO BOX 19567 STATION N
ATLANTA GA 30325

********** PRODUCT NAME **********

**00014* MCRAE MILL-E FUMIGANT

REGISTRANT *NAME AND ADDRESS*

* 001681 HORTUS PRODUCTS COMPANY
BOX 276
NEWFOUNDLAND NJ 07435

********** PRODUCT NAME **********

**00001* HORTUS LARVA-TOX "431"

**00006* HORTUS LARVA-TOX "440"

REGISTRANT *NAME AND ADDRESS*

* 001812 GRIFFIN CORP.
P.O. BOX 1847
VALDOSTA, GA 31601

********** PRODUCT NAME **********

**00054* DOWFUME W-40 A FUMIGANT FOR CONTROLLING WOREWORMS AND SOOT KNOW NEMATC

REGISTRANT	*NAME AND ADDRESS*
* 001842	TRIANGLE CHEMICAL COMPANY BOX 4528 MACON GA 31208

********** PRODUCT NAME **********

**00243* TRIANGLE DOWFUME W-40

REGISTRANT	*NAME AND ADDRESS*
* 001969	PARSONS CHEMICAL BOX 146 GRAND LEDGE MI 48837

********** PRODUCT NAME **********

**00098* PARSON LEMECGAS FUMIGANT

REGISTRANT	*NAME AND ADDRESS*
* 001990	FARMLAND IND., INC. C/O REGULATORY AFFAIRS DEPT. P. O. BOX 7305 KANSAS CITY, MO 64116

********** PRODUCT NAME **********

**00184* CCCE NEW ACTIVATE WEEVIL KILLER FUMIGANT

REGISTRANT	*NAME AND ADDRESS*
* 002165	PATTERSON CHEMICAL COMPANY INC 1400 UNION AVE KANSAS CITY, MO 64101

********** PRODUCT NAME **********

**00092* PATTERSON'S WEEVIL KILLER

REGISTRANT	*NAME AND ADDRESS*
* 002217	PEI-GORICH CORPORATION 300 SO 3RD ST KANSAS CITY KS 66118

********** PRODUCT NAME **********

**00108* 914 WEEVIL KILLER AND GRAIN CONDITIONER

REGISTRANT	*NAME AND ADDRESS*
* 002265	GOLD KIST INC PO BOX 2210 ATLANTA GA 30301

********** PRODUCT NAME **********

**00106* COTTON PRODUCERS ASSOCIATION FUMIGANT EDB-40

REGISTRANT	*NAME AND ADDRESS*
* 002342	KERR-MCGEE CHEMICAL CORP MGR PKG & LABELING KERR-MCGEE CENTER OKLAHOMA CITY OK 73102

********** PRODUCT NAME **********

**00180* FASCO FUME EDB-40

**00764* FASCO FUME EDB-85 SCII FUMIGANT

**00901* EDCHOFUME - 85

REGISTRANT	*NAME AND ADDRESS*
* 002548	RESEARCH PRODUCTS COMPANY BOX 1057 SALINA KS 67402

********** PRODUCT NAME **********

**00003* MAX SPOT KILL MACHINERY FUMIGANT

**00013* MAX KILL 10 LIQUID GRAIN FUMIGANT

**00048* MAX KILL SPOT - 59 SPOT FUMIGANT FOR MILLS AND MILLING MACHINERY

REGISTRANT	*NAME AND ADDRESS*
* 002881	LYSTAD INC. BOX 1718 GRAND FORKS ND 58201

********** PRODUCT NAME **********

**00049* LYSTADS GRAIN FUMIGANT 73

REGISTRANT	*NAME AND ADDRESS*
* 002917	CARTER INSEC & CHEMICAL COMPANY INC PO BOX 127 TEACHEY, NC 28464

********** PRODUCT NAME **********

**00074* CARTERFUME 85

REGISTRANT	*NAME AND ADDRESS*
* 002993	BEAYTON CHEMICALS INC P.O. BOX 238 WEST BURLINGTON IA 52655

********** PRODUCT NAME **********

**00023* BEAYTON BE-5 GRAIN FUMIGANT

REGISTRANT	*NAME AND ADDRESS*
* 003743	SOUTHERN AGRICULTURAL CHEMICALS INC PO BOX 527 KINGSTREE SC 29556

********** PRODUCT NAME **********

**00181* ROYAL FUME 85

**00261* MIKE-TOX 431

**00263* MIKE TOX 434

08/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

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REGISTRANT *NAME AND ADDRESS*

* 003886 FERGUSON FUMIGANTS
93 FORD LANE
HAZELWOOD MO 63042

********** PRODUCT NAME **********

**00001* DAWSON 73 FUMIGANT

**00003* DAWSON (E) 37 FUMIGANT

**00011* DAWSON HALISOL FUMIGANT

**00013* EDCOX GELLED SOIL FUMIGANT

**00014* ZYTOX GELLED SOIL FUMIGANT

**00016* WACO-50

****

REGISTRANT *NAME AND ADDRESS*

* 004185 SMITH-DOUGLASS DIV.
BORDEN CHEMICAL, BORDEN INC.
5100 VIRGINIA BEACH BLVD.
NORFOLK, VA 23501

********** PRODUCT NAME **********

**00454* SMITH-DOUGLASS DOWFUME W-85

****

REGISTRANT *NAME AND ADDRESS*

* 004715 COLORADO INTERNATIONAL CORP
7800 MARBLE N.E.
ALBUQUERQUE, N.M. 87110

********** PRODUCT NAME **********

08/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

**CONTINUE REGISTRANT 004715

**00136* BEST 4 SERVIS BRAND ETHYLENE DIBROMIDE 2 LB. CONCENTRATE

****

REGISTRANT *NAME AND ADDRESS*

* 005362 VULCAN MATERIAL COMPANY CHEMICAL DIV
PO BOX 545
WICHITA KS 67201

********** PRODUCT NAME **********

**00001* VULCAN FORMULA 635 (FC-2) GRAIN FUMIGANT

**00004* FORMULA 815 (FC-3) GRAIN FUMIGANT

**00007* FC-7 GRAIN FUMIGANT

**00009* (FC-13) MILL MACHINERY FUMIGANT

**00011* (FC-4) SX GRAIN STORAGE FUMIGANT

**00015* FRONTIER CICFC DUST GRAIN FUMIGANT

****

REGISTRANT *NAME AND ADDRESS*

* 005440 CARDINAL CHEMICAL COMPANY
50 FRANCISCO ST.
SAN FRANCISCO CA 94133

********** PRODUCT NAME **********

**00020* (EC-13) MILL MACHINERY FUMIGANT

**00022* FORMULA 635 (FC-2) GRAIN FUMIGANT

****

REGISTRANT *NAME AND ADDRESS*

* 008536 SOIL CHEMICAL CORPORATION
PO BOX 531
MORGAN HILL CA 95037

********** PRODUCT NAME **********

**00013* CHICK-C-ECH 93.5

****

REGISTRANT *NAME AND ADDRESS*

* 008550 AGWAY INC
CHEMICAL DIV BOX 1333
SYRACUSE NY 13201

********** PRODUCT NAME **********

**00098* AGWAY SERAFUME

**00279* AGWAY DOWFUME W-85

****

REGISTRANT *NAME AND ADDRESS*

* 008853 HENDRIX & DAIL INC
P O BOX 631
GREENVILLE, SC 27834

********** PRODUCT NAME **********

**00005* DOWFUME W-85 HIGH STRENGTH SOIL FUMIGANT

****

REGISTRANT *NAME AND ADDRESS*

* 009497 US DEPARTMENT OF AGRICULTURE
FOREST SERVICE
WASHINGTON DC 20250

********** PRODUCT NAME **********

**00001* BEETLE BELTER

****

REGISTRANT *NAME AND ADDRESS*

* 009625 GLENN IN TERMITE & PEST CONTROL
3305 24TH ST E
BRADENTON FL 33505

********** PRODUCT NAME **********

**00001* SUE-TEE-FUMI

****

REGISTRANT *NAME AND ADDRESS*

* 009657 WSR INCORPORATED
262 E BANK ST
PETERSBURG VA 23803

********** PRODUCT NAME **********

**00001* AGEL MB-68 SOIL FUMIGANT

08/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

REGISTRANT	*NAME AND ADDRESS*
* 005785	GREAT LAKES CHEM CORP DIRECTOR AGRI CHEM P O BOX 2200 WEST LAFAYETTE, IN 47906

********** PRODUCT NAME **********

**00018* SOILBROM-85

**00029* ETHYLENE DIBROMIDE

**00030* SOILBROM-40

**00034* GIC 72-27

**00035* A GEL 50 PREPLANT SOIL FUMIGANT

**00037* TERR-O-GEL 68

**00038* GIC 54-45

**00039* TERR-O-CIDE 30

**00043* TERR-O-CIDE 15

**00044* TERR-O-CIDE 93.5 SOIL FUMIGANT

**00046* E-D-BEE

**00050* TERR-O-CIDE 72-27

**00053* TERR-O-CIDE 54-45

**00054* SOILECH-90 EC

08/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EDB

REGISTRANT	*NAME AND ADDRESS*
* 006152	ATOMIC CHEMICAL CO BOX 1111 SPOKANE WA 99210

********** PRODUCT NAME **********

**00005* DYNA FUME

**00006* ISC-FUME

REGISTRANT	*NAME AND ADDRESS*
* 006754	LETTER EDCE PESTICIDE CORP. P.O. BOX 29586 ATLANTA GA 30319

********** PRODUCT NAME **********

**00031* PROFESSIONAL OBRIN'S SOIL FUMIGANT

REGISTRANT	*NAME AND ADDRESS*
* 007001	OCCIDENTAL CHEMICAL CO P O BOX 198 LATHROP, CA 95330

********** PRODUCT NAME **********

**00222* EDB 85

****

REGISTRANT *NAME AND ADDRESS*

* 010092 LOS ANGELES HONEY COMPANY
1559 FISHBURN AVE
LOS ANGELES CA 90063

********** PRODUCT NAME **********

**00001* LABCO BRAND E-I-E (ETHYLENE DIBROMIDE)

****

REGISTRANT *NAME AND ADDRESS*

* 011656 WESTERN BABE SERVICE INC SHELL CHEM COMPANY
1025 CONNECTICUT AVE-STE 200
WASH DC 20036

********** PRODUCT NAME **********

**00019* COAST-O-FUME W-85

****

REGISTRANT *NAME AND ADDRESS*

* 014775 ASGROW FLORIDA COMPANY
PO DRAWER D
PLANT CITY FL 33566

********** PRODUCT NAME **********

**00003* EDB-85

**00024* KIL-FUME 40

****

REGISTRANT *NAME AND ADDRESS*

* 021327 SOUTHWESTERN GRAIN SUPPLY COMPANY
1401 N 7TH ST
AMARILLO TX 79106

********** PRODUCT NAME **********

**00003* LARVACIDE

****

REGISTRANT *NAME AND ADDRESS*

* 036301 J-CHEM
9100 DICKIE -ECX 5421
HOUSTON, TX 77012

********** PRODUCT NAME **********

**00004* J-FUME-20

**00005* J-FUME-C

****

REGISTRANT *NAME AND ADDRESS*

* 000464 DOW CHEMICAL U S A
PO BOX 1706
MIDLAND MI 48640

********** PRODUCT NAME **********

**06869* ETHYLENE DIBROMIDE

**06900* DOWFUME W-85

****

REGISTRANT *NAME AND ADDRESS*

* 000550 VAN WATERS & ROGERS DIV OF UNIVAR
2256 JUNCTION AVENUE
SAN JOSE, CA 95131

********** PRODUCT NAME **********

**06417* NAMCO K-T-D

****

REGISTRANT *NAME AND ADDRESS*

* 001812 GRIFFIN CORP.
P.O. BOX 1847
VALDOSTA, GA 31601

********** PRODUCT NAME **********

**03880* DOWFUME W-85

****

REGISTRANT *NAME AND ADDRESS*

* 003286 FBSL STAFFER CO.
P.O. BOX 2380
SAN ANTONIO TX 78298

********** PRODUCT NAME **********

**08098* STAFFER'S GRAIN FUMIGANT

****

REGISTRANT *NAME AND ADDRESS*

* 005481 ENVAC CHEMICAL CORP
4100 EAST WASHINGTON BLVD
LOS ANGELES, CA 90023

********** PRODUCT NAME **********

**03845* FUM-A-CIDE 54-45

**03846* FUM-A-CIDE 30

**03847* FUM-A-CIDE 15

**03848* EDE-85

**03865* AICO MALI-CCB

****

REGISTRANT *NAME AND ADDRESS*

* 005785 GREAT LAKES CHEM CORP
DIRECTOR REGL CHEM
P O BOX 2200
WEST LAFAYETTE, IN 47906

********** PRODUCT NAME **********

**03872* TERR-O-CIDE 54-45

08/29/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EDB

**CONTINUE REGISTRANT 005785

**03674* SOILBROM-85

**03677* TERR-O-CIDE 54-45

**03679* SOILBROM-85

**03687* TERR-O-CIDE 30

**03692* SOILBROM-85

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REGISTRANT *NAME AND ADDRESS*

* 006973 SOILSERV INC
PO BOX 1817
SALINAS CA 93901

********** PRODUCT NAME **********

**03588* SS NEMATOX 40

****

REGISTRANT *NAME AND ADDRESS*

* 008360 INDUSTRIAL CHEMICALS CORPORATION
PO BOX 5702
DENVER CO 80217

********** PRODUCT NAME **********

**09177* INSECTICIDE,SPRAY,READY MIXED(BETLE BELTER)

08/29/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EDB

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REGISTRANT *NAME AND ADDRESS*

* 010975 CHEMILENE COMPANY
4937 TELEGRAPH RD
LOS ANGELES CA 90022

********** PRODUCT NAME **********

**04734* CHEMILENE'S "KR"

**04735* CHEMILENE'S "SR"

****

REGISTRANT *NAME AND ADDRESS*

* 011134 PEST CONTROL CHEMICALS INC
5852 S WESTERN AVE
LOS ANGELES CA 90047

********** PRODUCT NAME **********

**06622* PESTCO TERM-A-FUME SOLUTION

**06678* PESTCO KAL-A-FUME

****

REGISTRANT *NAME AND ADDRESS*

* 011656 WESTERN PAPE SERVICE INC SHELL CHEM COMPANY
1025 CONNECTICUT AVE-STE 200
WASH DC 20036

********** PRODUCT NAME **********

**05902* COAST-O-FUME 5-65

**** PRODUCT SEARCH LISTING **** PAGE 5

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REGISTRANT	*NAME AND ADDRESS*
* 014775	ASGROW FIELD COMPANY PO DRAWER D PLANT CITY FL 33566

********** PRODUCT NAME **********

**060023* EDB-C 15 SOIL FUMIGANT

[FR Doc.77-35168 Filed 12-13-77;8:45 am]