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Wednesday
August 15, 1979

Highlights

47761, 47763, 47764 **Home Owners Loans** FHLBB announces expanded authority of Federal savings and loan associations to invest in State housing corporations obligations, home improvement and repair loans and up to 5 percent of their assets in real estate under certain conditions; effective 9–10–79 (3 documents)

47759 **State and Local Government Investment Obligations** FHLBB provides authority for Federal savings and loans associations; effective 9–10–79

47776 **Banking** FRS proposes to permit brokers and dealers to extend credit on fully paid for mutual fund shares; comments by 10–15–79

47775 **Banking** FRS proposes an amendment on credit to exchange specialists; comments by 10–15–79

47880, 47884 **1981 and 1982 Model Year Light-Duty Vehicles** EPA issues Administrator's decision and establishes oxides of nitrogen (NO_x) emission standards; effective 9–14–79 (2 documents) (Part V of this issue)

47874 **Management and Budget** OMB prints notice on standards governing State and local grantee procurement (Part IV of this issue)

47886 **Budget Rescissions and Deferrals** OMB issues cumulative report (Part VI of this issue)

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Area Code 202–523–5240

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47755 **Records** GAO sets forth rules on public availability; effective 8–15–79

47809 **Qualified Health Maintenance Organizations** HEW/Office of the Assistant Secretary for Health publishes March list

47825 **Abnormal Occurrence** NRC reports to Congress significant incidents or events

47758 **Nuclear Power Plants** NRC changes date from 8–1–79 to 11–1–79 for pat-down searches of regular employees; effective 8–15–79

47862 **Endangered Species** Interior/FWS and Commerce/NOAA proposes new rules for revising and maintaining lists; comments by 10–15–79 (Part II of this issue)

47836 **Grain Oriented Silicon Electrical Steel From Italy** Treasury/Sec'y terminates countervailing duty investigation; effective 8–15–79

47807 **Pesticide** EPA publishes availability of list of registrants

47806 **Pesticide** EPA establishes temporary tolerances for *O*-Ethyl *O*-[4-(methylthio)phenyl]*S*-propyl phosphorodithioate

47902 **American Ginseng Roots** ESSA publishes export findings; effective 8–15–79 (Part VII of this issue)

47858 **Sunshine Act Meetings**

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47870 **Part III, State**
47874 **Part IV, OMB**
47880 **Part V, EPA**
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 305

Administrative Procedures; Editorial Amendment

AGENCY: Administrative Conference of the United States.

ACTION: Recommendation; Correction (Retroactive).

SUMMARY: The following correction should be made in FR Doc. Vol. 44, No. 129, Tuesday, July 3, 1979, appearing at 38817. § 305.79–4, on p. 38826, 1st column, lines 30–33, please remove the set of brackets. The sentences should read:

To give structure to the exercise of this responsibility, agencies sometimes use "cost-benefit" or similar analytic approaches to organize available information to determine the consequences of possible courses of action in terms of their costs, risks and benefits. Such techniques seek to display the projected net effects of alternative courses of action and, when properly used, can assist the decision-maker in deciding which of the alternatives is most likely to produce a desired result.

FOR FURTHER INFORMATION CONTACT: Linda Sedivec (202–254–7020).

Richard K. Berg,

Executive Secretary.

August 9, 1979.

[FR Doc. 79–25120 Filed 8–14–79; 8:45 am]

BILLING CODE 6110–01–M

GENERAL ACCOUNTING OFFICE

4 CFR Part 81

Public Availability of General Accounting Office Records

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This rule amends Part 81 of Title 4, Code of Federal Regulations, to implement General Accounting Office policy regarding the public availability of General Accounting Office records. These revised regulations are being issued in light of agency experience with respect to requests for access to records. The regulations are intended to provide an efficient procedure by which such requests can be received and considered while at the same time incorporating appropriate safeguards for the protection of certain categories of agency materials.

DATES: August 15, 1979.

FOR FURTHER INFORMATION CONTACT: William J. Anderson, Director, Office of Policy, United States General Accounting Office, 441 G Street, NW, Washington, D.C. 20548. (202) 275–5106.

Part 81 of Chapter I, Subchapter F, of Title 4, Code of Federal Regulations, is hereby revised to read as follows:

PART 81—PUBLIC AVAILABILITY OF GENERAL ACCOUNTING OFFICE RECORDS

Sec.

81.1 Purpose and scope of part.
81.2 Administration.
81.3 Definitions.
81.4 Requests for identifiable records.
81.5 Records which may be exempt from disclosure.
81.6 Public reading facility.
81.7 Fees and charges.

Authority: The provisions of this Part 81 issued under the Budget and Accounting Act of 1921, sec. 311, 42 Stat. 25, as amended, 31 U.S.C. 52.

§ 81.1 Purpose and scope of part.

This Part implements the policy of the United States General Accounting Office (GAO) with respect to the public availability of GAO records. While GAO is not subject to the Freedom of Information Act (5 U.S.C. 552), GAO's disclosure policy follows the spirit of the act consistent with its duties and functions and responsibility to the Congress. Application of this act to GAO is not to be inferred from the provisions of these regulations.

§ 81.2 Administration.

The administration of this Part is the duty and responsibility of the Director, Office of Policy (OP), United States General Accounting Office, 441 G Street NW, Washington, D.C. 20548, and to that end the Director shall promulgate such supplemental rules or regulations as may be necessary.

§ 81.3 Definitions.

As used in this Part:

(a) *"Identifiable."* In the context of a request for a record, the term "identifiable" means a reasonably specific description of a particular record sought, such as the date of the record, subject matter, agency or person involved, etc., which will permit location or retrieval of the record.

(b) *"Records."* The term "records" includes all books, papers, manuals, maps, photographs, reports, and other documentary materials, regardless of physical form or characteristics made or received by or under the control of GAO in pursuance of law or in connection with the transaction of public business. In the context of a request for a record or records, the term "records" refers only to records in being and in the possession or under the control of GAO. It does not include the compiling or procuring of a record. Nor does it include library or museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, or stocks of publications or of processed documents.

(c) *"Records Available to the Public."* "Records available to the public" means records which may be examined or copied or of which copies may be obtained, in accordance with this Part, by the public or representatives of the press regardless of interest and without specific justification.

(d) *"Disclose or Disclosure."* "Disclose or disclosure" means making available for examination or copying or furnishing a copy.

(e) *"Person."* "Person" includes an individual, partnership, corporation, association, or public or private organization other than a Federal agency.

§ 81.4 Requests for identifiable records.

(a) A request to inspect or obtain a copy of an identifiable record of GAO must be submitted in writing to the Director, OP, (See § 81.2), who will promptly acknowledge and record the request.

(b) The Director, OP, or other GAO organizational unit will promptly honor the request if no valid objection exists as to the propriety of such action and the requester is willing and able to pay the prescribed fees for making the record available for inspection or copying or being provided with a copy.

(c) In the event of an objection or doubt as to the propriety of providing the requester with a copy of the record sought, every effort will be made to resolve such problems as quickly as possible, including consultation with appropriate GAO elements. If it is determined that the record should be withheld, the GAO organizational unit handling the request shall inform the requester in writing that the request has been denied; shall identify the material withheld; and shall explain the basis for the denial.

(d) A person whose request is denied shall be informed that further consideration of his request may be obtained by a letter to the Comptroller General of the United States setting forth the basis for the belief that the denial of the request was unwarranted.

(e) It is the policy of GAO not to provide records from its files that originate in another agency or non-Federal organization to persons who may not be entitled to obtain the records from the originator. In such instances, requesters will be referred to the person or organization that originated the records.

§ 81.5 Records which may be exempt from disclosure.

(a) The public disclosure of GAO records contemplated by this Part may not apply to records, or parts thereof, within any of the categories listed below. These exemptions may be waived by the Director, OP.

(1) Congressional correspondence, including congressional contact memoranda, and other papers relating to work performed in response to a congressional request (unless authorized by the requester).

(2) Records specifically required by an Executive order to be kept secret in the interest of national defense or foreign policy. An example of this category is a record classified under Executive Order 12065, National Security Information.

(3) Records related solely to the internal personnel rules and practices of an agency. This category includes, in addition to internal matters of personnel administration, internal rules and practices which cannot be disclosed without prejudice to the effective performance of any agency function. Examples of matters within the purview of this exemption are operating rules, guidelines, and manuals of procedures for auditors, investigators, or examiners.

(4) Records specifically exempted from disclosure by statute. For a general, but not exhaustive, compilation of relevant statutory provisions, see Federal Statutes on the Availability of Information, Committee Print, House Committee on Government Operations, 86th Congress, 2d Session, March 1960.

(5) Records containing trade secrets and commercial or financial information obtained from any person and considered privileged or confidential. This exemption includes, but is not limited to, business sales statistics, inventories, customer lists, scientific or manufacturing processes or development; information customarily subject to protection as privileged in a court or other proceedings, such as information protected by the doctor-patient or lawyer-client privilege; and information submitted by any person to GAO in confidence or where GAO has obligated itself not to disclose information it received.

(6) Personnel and medical files and similar files the disclosure of which could constitute a clearly unwarranted invasion of personal privacy. This exemption excludes from disclosure all personnel and medical files, and all private or personal information contained in other files which, if disclosed to the public, would amount to a clearly unwarranted invasion of the privacy of any person. An example of such other files within the exemption are those compiled to evaluate candidates for security clearance.

(7) Investigatory files compiled for law enforcement purposes.

(8) Records having information contained in or related to examination, operating, or conditional reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(9) Records containing geological and geophysical information and data (including maps) concerning wells.

(10) Inter-agency or intra-agency memoranda, letters or other materials that are part of the deliberative process. This exemption covers internal communications such as GAO or other agency draft reports, and those portions of internal drafts, memoranda and workpapers containing opinions, recommendations, advice or evaluative remarks of GAO employees. This exemption seeks to avoid the inhibiting of internal communications, and the premature disclosure of documents which would be detrimental to an agency function.

§ 81.6 Public reading facility.

(a) A public reading facility shall be maintained by the General Accounting Office at 441 G Street, NW., Washington, D.C., for the public inspection and copying of GAO final decisions, opinions, statements of policy and instructions (including staff manuals) which may be relied upon, used or cited as authority or precedent in the determination of rights, privileges, and obligations of members of the public. The facility, under the immediate supervision of the Chief, Legal Information and Reference Services, Office of the General Counsel, shall be open to the public from 9 a.m. to 5 p.m. except Saturdays, Sundays, and holidays.

(b) There shall be maintained in the public reading facility for public use a current index of materials issued, adopted, or promulgated after July 4, 1967, and available in the reading facility for public inspection and copying.

§ 81.7 Fees and charges.

(a) This section describes fees and charges for search and reproduction of records available to the public. GAO publications are not within the purview of this section; the charges, if any, for such publications are set forth in the GAO leaflet entitled "List of GAO Publications," which may be obtained from the U.S. General Accounting Office, Publications Services, Washington, D.C. 20548.

(b) A fee covering the direct costs of search and reproduction to comply with the request shall be charged when such costs exceed $5. The following charges and collections shall be made:

(1) The reproduction charge per page shall be 10 cents.

(2) Certification of authenticity shall be $3 for each certificate.

(3) Search for records by Office personnel:

(a) Clerical personnel—$5 an hour after the first hour.

(b) Professional personnel—$12 an hour after the first hour.

(4) Other direct costs related to the request may be charged for such items as computer searches.

(c) GAO shall have the option of requiring an advance deposit where the anticipated fees will exceed $25.

(d) Fees and charges shall be paid by check or money order payable to the U.S. General Accounting Office.

(e) There shall be no charge if the record requested is not found, or is determined to be exempt under the provisions of this Part. No charge shall be made for staff-hours spent in resolving any legal or policy questions pertaining to the request.

(f) No charge shall be made for copies of records, including those certified as true copies, that are furnished for official use to any officer or employee of any branch of the Government of the United States.

(g) No charge shall be made in the distribution to members of the public and the press of copies of the decisions of the Comptroller General of the United States.

(h) When necessary or desirable to the performance of a function of GAO, copies of pertinent records may be furnished without charge to a party having a direct and immediate interest in a matter pending before the Office.

(i) Fees established by this section may be waived or reduced upon a determination that such waiver or reduction is in the public interest because furnishing the information is considered as primarily benefiting the general public. Persons seeking such waiver or reduction of fees may be required to submit a statement setting forth the intended purpose for which the records are requested or otherwise indicate how disclosure will primarily benefit the public and, in appropriate cases, explain why the volume of records requested is necessary. Determinations pursuant to this subsection are solely within the discretion of GAO.

Elmer B. Staats,

Comptroller General of the United States.

[FR Doc. 79-25148 Filed 8-14-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 926

Tokay Grapes Grown in San Joaquin County, Calif.; Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document authorizes expenses and rate of assessment for the 1979–80 fiscal period to be collected from handlers to support activities of the Industry Committee which locally administers the Federal marketing order for Tokay grapes grown in San Joaquin County, California. It also authorizes the carryover of unexpended funds from the 1978–79 fiscal period.

DATES: April 1, 1979, through March 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: This document is issued pursuant to the marketing agreement, as amended, and Order 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Based upon the recommendations and information submitted by the Industry Committee established under the order, and upon other information, it is found that the expenses, rate of assessment, and carryover of unexpended funds are hereafter provided will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), as the order requires that the rate of assessment for a fiscal period shall apply to all assessable Tokay grapes handled from the beginning of the period. To enable the Industry Committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and rate of assessment at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this action warrants publication without opportunity for further public comment. The action has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250; phone (202) 447–5975.

§ 926.219 Expenses, Rate of Assessment, and Carryover of Unexpended Funds.

(a) Expenses that are reasonable and likely to be incurred by the Industry Committee during fiscal period April 1, 1979, through March 31, 1980, will amount to $113,265.

(b) The rate of assessment for said period payable by each handler in accordance with § 926.46 is fixed at $0.10 per No. 38L grape lug (as specified in § 1380.19 of the Regulations of the California Department of Food and Agriculture) or equivalent quantity of Tokay grapes.

(c) Unexpended assessment funds in excess of expenses incurred during the fiscal period ended March 31, 1979, shall be carried over as a reserve in accordance with § 926.47.

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

Dated: August 10, 1979.

James S. Miller,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-25129 Filed 8-14-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts with Transportation Lines; Deletion of Transportation Line From Listing

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This document amends the regulations of the Immigration and Naturalization Service to delete Qantas Empire Airways, Ltd., from the list of transportation lines which have entered into agreements for the preinspection of their passengers and crews at Vancouver, B.C., Canada. This amendment is necessary because Qantas requested the Service to terminate the agreement by a letter to the Regional Commissioner of this Service at Twin Cities, Minnesota, dated June 13, 1979. This amendment is intended to comply with that request, and remove Qantas Empire Airways, Ltd., from the listing in the Code of Federal Regulations.

EFFECTIVE DATE: June 13, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: For the reasons stated in the above summary, Chapter I of Title 8 of the Code of Federal Regulations is hereby amended as set forth below.

§ 238.4 [Amended]

In § 238.4, *Preinspection outside the United States*, the listing of places and signatory lines is amended by deleting "Qantas Empire Airlines, Ltd.," from the listing of transportation lines listed under "At Vancouver."

* * * * *

(Sec. 103 and 238(b); (8 U.S.C. 1103 and 1228(b)).

This amendment is published pursuant to 5 U.S.C. 552 as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date are unnecessary in this instance, because the involved airline requested termination of the preinspection agreement, and because the amendment to the Code of Federal Regulations is editorial in nature.

Effective date: This amendment is effective as of June 13, 1979.

Dated: August 9, 1979.

Leonel J. Castillo,

Commissioner of Immigration and Naturalization.

[FR Doc. 79–25100 Filed 8–14–79; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Rules of Practice; Selected Nuclear Power Plant Construction Permit Applications

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is adopting minor procedural amendments to permit the use of new staff procedures on a trial basis for the systems and site safety portions of selected nuclear power plant construction permit applications.

EFFECTIVE DATE: The amendments are effective on August 15, 1979.

FOR FURTHER INFORMATION CONTACT: Royal J. Voegeli, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492–8693.

SUPPLEMENTARY INFORMATION: On April 18, 1979, the U.S. Nuclear Regulatory Commission published in the **Federal Register** (44 FR 23089–23090) for public comment proposed amendments to its regulations in 10 CFR Part 2 which would permit the use of new staff procedures on a trial basis for the systems and site safety portions of selected nuclear power plant construction permit applications. Interested persons were invited to submit written comments concerning the proposed amendments by June 4, 1979.

Only one comment was received, which questioned whether use of the new procedures would result in reducing the time for the issuance of the staff Safety Evaluation Report from approximately 18 months to 6 months. The commentor suggested that if such a reduction is practical, the regulations should be amended further to require that the Safety Evaluation Report be issued within 6 months after the application has been docketed.

The regulations never have specified a time limit for completion of the staff's Safety Evaluation Report. A safety or environmental review is completed after the staff is satisfied that it has all the information needed to complete its evaluation. The setting of a deadline might impose unwarranted pressures on the staff to complete licensing reviews prematurely. Certainly, the staff continuously seeks and implements changes which will improve the efficiency and effectiveness of the review process without compromising review quality. The amendments relate to new staff procedures which seek to implement such a change. It is believed that the much more comprehensive predocketing review to be made under the new procedures, coupled with improved staff-applicant coordination prior to tendering of the application, should enable the staff to realize its goal of completing the Safety Evaluation Report within six months of docketing. However, the six (6) month schedule must be recognized as only a goal, and therefore should not be made a regulatory requirement.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and sections 552 and 553 of title 5 of the United States Code, the following amendments to 10 CFR Part 2 are published as a document subject to codification.

§ 2.101 [Amended]

1. Section 2.101(a)(2) is amended by adding at the end thereof the following:

(a) * * *

(2) * * * However, in selected construction permit applications, the Commission may decide to determine acceptability on the basis of the technical adequacy of the application as well as its completeness. In such cases, the Commission, pursuant to § 2.104(a), will direct that the notice of hearing be issued as soon as practicable after the application has been tendered, and the determination of acceptability will generally be made within a period of sixty (60) days.

* * * * *

§ 2.104 [Amended]

2. The second sentence of § 2.104(a) is amended to read as follows:

(a) * * * In addition, in the case of an application for a construction permit for a facility of the type described in § 50.22 of this chapter, or a testing facility, the notice (other than a notice pursuant to paragraph (d) of this section) shall be issued as soon as practicable after the application has been docketed: *Provided,* That if the Commission, pursuant to § 2.101(a)(2), decides to determine the acceptability of the application on the basis of its technical adequacy as well as completeness, the notice shall be issued as soon as practicable after the application has been tendered.

* * * * *

(Sec. 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Bethesda, Md. this 3rd day of August 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79–25032 Filed 8–14–79; 8:45 am]

BILLING CODE 7590–01–M

10 CFR Part 73

Requirements for the Physical Protection of Nuclear Power Plants

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Effective rule.

SUMMARY: The date when pat-down searches of regular employees at nuclear power plants, two-man rule procedures and additional compartmentalization have to be implemented for protection against insider sabotage is being changed from August 1, 1979 to November 1, 1979. The delay is being granted for essentially the same reasons cited in the **Federal Register** notice of February 28, 1979, 44 FR 11201. It was

noted in 44 FR 11201 that the Commission was awaiting the results of the Hearing Board Report on the Material Access Authorization Program before a decision on the need for pat-down searches of regular employees at nuclear power plants, two-man rule procedures and compartmentalization could be made. The Commission received this report April 1979, and is presently evaluating the recommendations of this report.

EFFECTIVE DATE: August 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Clark, Chief, Reactor Safeguards Licensing Branch, Office of Nuclear Reactor Regulations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301–492–7230.

SUPPLEMENTARY INFORMATION: On February 28, 1979 the Commission changed the date from February 23, 1979 to August 1, 1979 when pat-down searches of regular employees of nuclear power plant licensees, two-man rule procedures and compartmentalization to provide protection against insider sabotage at nuclear power plants had to be implemented. The rationale for this extension was developed in the **Federal Register** notice on this subject, 44 FR 11201.

The primary reason for delaying implementation of these measures was that the Commission needed to consider them in light of the material access authorization program and was awaiting the findings of the Hearing Board before making a decision on the measures. The Hearing Board submitted their report to the Commission, April 1979, and the Commission is now evaluating the findings. The Hearing Board recommendations were different from those of the staff for nuclear power plants. That is, whereas the staff recommended a material access authorization program consisting of a full field background investigation for individuals granted unescorted access to Type I vital areas, the Hearing Board recommended among other things a national agency check and a psychological screening program. The staff has informed the Commission that if the Hearing Board's recommendations are adopted the elements of this program would require additional time to implement through rulemaking procedure.

Clearly, more time will be needed to evaluate the Hearing Board's recommendations. In the meantime all licensees have met all the other requirements of § 73.55 and the Commission is satisfied that these other measures combined with search procedures presently being followed, and other actions being developed to assure more positive access control to type I vital areas, will in total, for the interim, provide adequate protection against sabotage by an insider at nuclear power plants. The Commission, therefore, has decided to delay from August 1, 1979 to November 1, 1979, the date when pat-down searches of regular employees and these other complementary or alternative measures to pat-down searches have to be implemented.

The Commission has determined that this action is consistent with the common defense and security and the protection of public health and safety. The Commission has, for good cause found that notice and public procedure on this amendment are unnecessary because of the earlier public participation in the rulemaking proceeding leading to 10 CFR 73.55. The amendment is also made effective on August 15, 1979, because it serves to relieve a restriction that would otherwise be imposed on affected licensees of the Commission on August 1, 1979.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10 Chapter I, Code of Federal Regulations, Part 72 is published as a document subject to codification.

§ 73.55 [Amended]

1. Section 73.55 of 10 CFR Part 73 is amended to change the date of August 1, 1979 to November 1, 1979, in the second to last sentence of the unnumbered prefatory paragraph of this section.

Effective date: August 15, 1979.

(Sec. 161i, Pub. L. 83–703, 68 Stat. 948, Pub. L. 93–377, 88 Stat. 475; Sec. 201, Pub. L. 93–438, 88 Stat. 1242–1243, Pub. L. 94–79, 89 Stat. 413 (U.S.C. 2201, 5841).)

Dated at Washington, D.C., this 9th day of August 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-25119 Filed 8-14-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 79-416]

Investment in State and Local Government Obligations

Dated: August 2, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: Statutory authority was recently provided for Federal savings and loan associations meeting certain criteria to make limited investments in obligations of or issued by their home State and political subdivisions thereof if the proceeds of the obligations are used to support the rehabilitation, financing or construction of residential real estate. This regulation implements that authority. The regulation does not include a targeting provision.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION, PLEASE CONTACT: Randall H. McFarlane, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202–377–6449).

SUPPLEMENTARY INFORMATION: Title XVII of Public Law 95–630, under Section 5(c)(4)(D) of the amended Home Owners' Loan Act, has made it possible for any Federal association which has general reserves, surplus, and undivided profits aggregating a sum in excess of 5 percent of its withdrawable accounts to invest in, or commit itself to invest in, obligations of its home State or political subdivisions thereof, if the proceeds of such obligations are to be used for the rehabilitation, financing or construction of residential real estate. The investments must be prudent investments as defined by the Federal Home Loan Bank Board and cannot exceed the amount of the institution's general reserves, surplus and undivided profits.

The Bank Board, by Resolution No. 79–243 dated April 19, 1979, proposed to add a new section to Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) to implement this authority. The proposed regulation, § 545.7–11, was published in the **Federal Register** on April 25, 1979, with an invitation for public comment until May 25, 1979.

Based on comments received, and after careful consideration, the Bank Board has determined to issue § 545.7–11 as proposed, with minor, non-substantive changes.

Under § 545.7–11, Federals having the statutorily-mandated level of reserves, surplus and undivided profits are permitted to invest, or commit themselves to invest, up to the statutory limit in obligations of or issued by their home State or political subdivisions thereof, or of or by agencies, corporations or instrumentalities of the State or political subdivisions thereof. This is a slight alteration of the language in the proposal which referred to obligations *of* the State or other bodies, thus raising the possibility that obligations such as mortgage revenue bonds, which, strictly speaking, may not be obligations of the issuer, would not be permissible investments for Federal associations. The Bank Board does not intend such an exclusion. Also, the final regulation explicitly provides for authority to lend to such bodies, which would include State housing corporations.

In accordance with statutory requirements, the proceeds from the obligations must be used for the rehabilitation, financing or construction of residential real estate, which is defined as homes (including condominiums and cooperatives), combinations of homes and business property, other dwelling units, or combinations of homes and dwelling units, including homes and business property involving only minor or incidental business use. This requirement was not made clear enough in the proposal, and the final regulation has been altered accordingly. These terms are defined in the Rules and Regulations for the Federal Savings and Loan System.

In addition, pursuant to the statutory prudent investment requirement, the obligations (other than loans) must be rated in one of the four highest grades as shown by the most recently published rating made of such obligations by a nationally recognized rating service; or, if not rated, they must be approved by the Bank Board. The Bank Board believes permitting Federals to invest in obligations falling within the four highest grades will afford institutions a wide range of investment options consistent with safe and sound operation. This approach is one which has been used by the Bank Board regarding assets qualifying as liquid assets under 12 CFR 523.10(g)(6).

Although on an aggregate basis, an eligible Federal will be able to invest up to an amount equal to its general reserves, surplus and undivided profits in obligations permitted under § 545.7–11, not more than 25 percent of that amount could be invested in obligations of or issued by any one issuer. This requirement should ensure that Federals do not over-concentrate their investments in such obligations, but maintain some portfolio diversity.

The Bank Board has detemined not to make new investments under § 545.7–11 subject to the percent-of-assets limitations of § 545.8–7.

In drafting its proposal to implement the authority contained in § 5(c)(4)(D), the Bank Board gave considerable thought to whether or not to limit investment under that section to "targeted" obligations, i.e., those whose proceeds are designated for furtherance of narrowly drawn public policy objectives. Consideration was given to restricting investments in accordance with criteria related to income, program, or geographic factors. For example, one possibility would have been to restrict the program to obligations designed to aid persons whose income is less than 80 percent of the area median. An example of a program-related criterion would have been to restrict investment to obligations designed to assist the Department of Housing and Urban Development's Section 8 housing projects. From a geographic standpoint, the Bank Board could have limited investment to those obligations aimed at redevelopment of distressed areas or areas designated by HUD as neighborhood strategy areas.

Rather than propose a regulation with such a targeting provision, however, the Bank Board decided to request comment on this issue. After analyzing the comments and giving the matter careful consideration, the Bank Board has concluded that investments only should be limited under this section to targeted obligations pursuant to a Congressional determination to limit such investments.

Comment Summary

The final version of § 545.7–11 reflects careful consideration by the Bank Board of the comments received from ten sources. A summary of these comments appears below under appropriate subheadings.

Targeting

Six commenters opposed targeting. A variety of reasons was cited, the most common being that Congress is currently considering targeting in the context of the mortgage revenue bond issue, and is the proper forum for resolving this issue. Other opponents suggested that the burden of complying with social policy-oriented restrictions on mortgage revenue bonds should be on issuers not purchasers; that sufficient targeting was already built into the regulation by virtue of the statutory requirement that proceeds of the obligations be for the construction, rehabilitation or repair of residental real estate; that targeting was unnecessary because of the existence of the Community Reinvestment Act; and that it would be inappropriate for the Bank Board to substitute its judgment for that of an issuing jurisdiction *vis a vis* what is an acceptable social purpose to be accomplished with bond proceeds. In addition, other commenters objected to targeting on the basis that it would put Federal associations at a competitive disadvantage to circumscribe their investment authority in this manner, and would render the investment process overly complicated. Finally, one commenter suggested that the Bank Board lacked legal authority to restrict investment under Section 5(c)(4)(D), except in accordance with the statutory criteria that the investments be prudent ones, and that their proceeds be used for the construction, rehabilitation or repair of residential real estate.

Those not opposing targeting thought criteria directing investments to housing for persons in the low to moderate income range (for instance 80% of area median income) would be most appropriate. Geographic targeting was regarded as particularly inappropriate.

Response. The Bank Board has decided not to impose any targeting requirement. After considering this matter carefully, it has concluded that targeting limitations only should be imposed pursuant to a Congressional determination to limit such investments.

Mortgage Revenue Bonds as Obligations

Several commenters pointed out that the language of the proposal limiting investment to obligations of States or polictical subdivisions thereof could be construed to bar investments in mortgage revenue bonds. Holders of such bonds typically have a claim on the mortgages underlying the bonds rather than on the isuer; hence, an argument could be made that they are not, strictly speaking, obligations of issuing bodies. Accordingly, the Bank Board was urged to clarify the definitions to remove any doubt as to the ability of Federal associations to invest in mortgage revenue bonds.

Response. The Bank Board has added language making it clear that Federal association investment in the instruments in question will be permitted.

Other Comments. Comments on various other topics were received as follows:

(1) The Bank Board should include language in the regulation that would make it clear that instruments issued by

quasi-public corporations would be eligible for investment. Also, the term "residential real property" should be defined to include mobile homes.

Response. Regarding the suggestion that explicit provision be made for making quasi-public corporations eligible for investment under the regulation, the Bank Board believes that the listing of entities is sufficiently board as it stands, and, as a practical matter, will include various organizations generally regarded as quasi-public. Rather than include a term of such uncertain scope as "quasi-public corporation" in § 545.7–11, the Bank Board would prefer to have the opportunity to evaluate the suitability of such entities on an individual basis when there is doubt as to whether their obligations are eligible investments under the regulation.

Similarly, the Bank Board declines to include mobile homes on a blanket basis within the definition of residential real property. There are, of course, circumstances in which mobile homes have been determined to fall within certain of the sub-definitions (such as single-family dwelling) used to make up the definition of residential real property. Thus, the Bank Board will allow investments in obligations the proceeds of which will involve mobile home housing depending upon factors in the individual case.

(2) No rating or prior approval requirement should be imposed on investments secured by a first lien on real estate.

Response. The Bank Board is of the opinion that the mere existence of such a lien does not ensure a prudent investment as mandated by Congress. Accordingly, the rating and prior approval requirements will not be changed to make such an exception.

(3) Instead of restricting investment under the proposed regulation to the amount of the association's general reserves, surplus and undivided profits, Federals should be allowed to rely on their own judgment as to what degree of involvement is proper. In particular, associations should be able to invest in obligations backed by mortgages to the extent they could invest in the mortgages directly.

Response. The underlying statutory provision limiting the extent of such investment bars such an approach. The regulatory limits are prescribed by statute.

(4) The Bank Board should recast its proposal to make it clear that proceeds of obligations eligible for investment under the regulation must be directed to financing, rehabilitation and construction of residential real estate.

Response. The Bank Board has altered the regulation as suggested.

Accordingly the Bank Board amends Part 545 of the Rules and Regulations of the Federal Savings and Loan System by adding a new § 545.7–11 thereto, to read as set forth below.

§ 545.7–11 Investment in State and Local Government Obligations.

(a) *Definitions.* (1) "Residential real estate"—homes (including condominiums and cooperatives), combinations of homes and business property, other dwelling units, or combinations of homes and dwelling units, including homes and business property involving only minor or incidental business use.

(2) "Obligations of or issued by the home state or political subdivisions thereof"—obligations (including loans) of or issued by the home State or political subdivisions thereof, or of or by agencies, corporations, or instrumentalities of the State or political subdivisions thereof.

(b) Any Federal association whose general reserves, surplus and undivided profits aggregate a sum in excess of 5 percent of its withdrawable accounts may invest in, or commit itself to invest in, obligations of or issued by its home State or political subdivisions thereof where the proceeds of such obligations are to be used for the rehabilitation, financing or construction of residential real estate; provided (except with respect to loans), that:

(1) The obligations are rated in one of the four highest grades as shown by the most recently published rating made of such obligations by a nationally recognized investment rating service; or

(2) The obligations, if not rated, are approved by the Bank Board.

(c) The aggregate outstanding investment under this section shall not exceed the amount of the association's general reserves, surplus and undivided profits, and no more than 25 percent of that sum may be invested in obligations of or issued by any one issuer.

(d) Investments under this section shall not be included in the percent-of-assets limitations under § 545.8–7.

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

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79–25202 Filed 8–14–79; 8:45 am]

BILLING CODE 6720–01–M

12 CFR Part 545

[No. 79–413]

Investment in Areas Receiving Concentrated Development Assistance

Dated: August 2, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: Recent statutory authority provides that Federal savings and loan associations can invest up to 5 percent of their assets in real estate, or liens thereon, in geographic areas receiving concentrated assistance under Title I of the Housing and Community Development Act of 1974, as amended. This regulation implements that authority.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION, PLEASE CONTACT: Randall H. McFarlane, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202–377–6449).

SUPPLEMENTARY INFORMATION: Title XVII of Pub. L. 95–630 has made it possible, under section 5(c)(3)(D) of the amended Home Owners' Loan Act, for Federal associations to invest up to 5 percent of their assets in real estate, or liens thereon, in geographic areas receiving concentrated development assistance under Title I of the Housing and Community Development Act of 1974, as amended. Subject to that 5 percent limitation, 2 percent of an association's assets may be used for direct investment in real estate to be developed as commercial or residential property by the association. This gives an association the ability, within certain defined areas, to make loans not subject to the normal percentage-of-assets "baskets", or to certain requirements pertaining to maturities, loan-to-value ratios, or loan amounts, and to purchase real estate without being subject to the usual requirement that such purchases must be used for association offices. Under prior law, comparable 5 percent and 2 percent rules existed for similar investments by Federals in "urban renewal areas". Congress made the statutory change in section 5(c) from "urban renewal" areas to "areas receiving concentrated development assistance" because urban renewal areas are no longer being designated under other legislative programs.

The Federal Home Loan Bank Board, by Resolution No. 79–241, dated April 19, 1979, proposed to implement this authority by amending § 545.6–10 of the

Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.6–10). The proposal was published in the **Federal Register** on April 25, 1979, with an invitation for public comment until May 25, 1979. The Bank Board has determined to amend § 545.6–10 as proposed, with the addition of minor conforming amendments to §§ 545.8–7(b) (concerning percentage limitations on specific types of loans) and 545.8 (concerning participations), and deletion of language appearing in § 545.6–10(a), (c) and (f) requiring that investments under the regulation must be secured by first liens.

The Bank Board has tried to specify a wide variety of locales as eligible for investment under § 545.6–10 without sacrificing a targeting effect. Four general classes of locales are eligible. First, such investments may be made in Neighborhood Strategy Areas receiving concentrated development assistance. Although these areas have not yet been designated in large numbers, they are expected to develop into major targeting regions for community development block grant assistance. Second, investments may be made within any general location which is specified in a community's Housing Assistance Plan as an area for housing assistance goals and which is receiving concentrated assistance. Third, investments may continue to be made in those urban renewal areas still receiving concentrated assistance in order to finish uncompleted urban renewal projects. Finally, Federal associations may invest in any locales specified by communities as receiving urban development action grants, or as otherwise receiving significant amounts of concentrated assistance.

COMMENT SUMMARY: Of the eight parties commenting on the draft regulation, six supported it as proposed, one party regarded it as of little significance in view of allegedly low current loan demand in the areas covered, and one supported it subject to modifications.

Suggested modifications were as follows:

(1) The first lien requirement should be deleted from the regulation, since it no longer appears in the statute.

Response: The Bank Board has determined to take this step in order to conform the regulation with the language of the statute.

(2) The Bank Board should eliminate restrictions on loan-to-value ratios, maturities, scheduled items, sales with recourse and lending areas, adopting instead a prudent man standard under the regulation as a means of advancing "creative financing" approaches to urban revitalization.

Response: The Bank Board does not believe such an approach is necessary or appropriate. The limitations in question, in the Bank Board's view, are not unduly restrictive. Under appropriate circumstances they permit nationwide lending, loans up to 100 percent of value, and loans with 30-year maturities (or more, in the case of variable rate mortgages). Furthermore, an association in favorable financial condition can, under the Bank Board's non-conforming loan regulation, § 545.6–12, make investments secured by residential real property without regard to loan-to-value ratios, loan amounts, or maturity.

The Bank Board also believes that the limitations are rooted in sound policy considerations. Lending area restrictions implement the Congressional concern expressed in section 5(a) of the Home Owners' Loan Act that Federals be created as local home financing entities—a concern reflected also in the emphasis in the recent Community Reinvestment Act on serving community credit needs. They also are a function of the Bank Board's belief that safe and sound operation is promoted by encouraging investments that are geographically proximate to the association. Not permitting sales with recourse is also consistent with safe and sound operation, for it ensures that Federals will not become, in effect, guarantors of the loans they sell. Maturity restrictions ensure that borrowers and lenders make a realistic appraisal of a borrower's ability to repay a loan, and ensure that repaid principal will again be available for new loans within a reasonable time. Scheduled item requirements act to promote safety and soundness by providing for a regulatory performance test, in terms of payment frequency and valuation of the association's assets. Finally, loan-to-value ratios act as an incentive to borrowers to invest their own money in a property, which encourages them to take a serious view of their obligation. In addition, loan-to-value ratios assure that in foreclosure the association will be able to levy on a property having a value in excess of the amount of the loan it secures.

(3) Service corporation restrictions, in the context of § 545.6–10 investments, should be liberalized to allow associations to joint venture with service corporations without such investments counting against service corporation investment and debt limits.

Response: The Bank Board believes the current limitation is consistent with safe and sound operation, in light of the somewhat riskier investments possible through the service corporation mode.

(4) The 2 percent direct ownership restriction should be altered to specify that only the equity interest in a property would be applied to the limitation.

Response: The Bank Board believes that this would be a distortion of the normal concept of investment as including the total amount of funds one puts into a particular enterprise, regardless of whether the monies were obtained internally or by means of a loan. To adopt such a proposal would be to amend administratively the 2 percent direct investment limit imposed by Congress in the statute.

(5) The Bank Board's regulations should be amended to allow associations to make loans to, or equity investments in, any entity making investments which a Federal association could make under § 545.6–10.

Response: There does not appear to be statutory authority for the Bank Board to authorize Federals to make loans to, or equity investments in, any entity making investments which a Federal association could make under § 545.6–10.

Accordingly, the Bank Board hereby amends Part 545 by revising the title of § 545.6–10, and amending paragraphs (a), (c)(1) and (f)(1) thereof, by amending paragraph (b) of § 545.8, and by amending the first two sentences of paragraph (b) of § 545.8–7, to read as set forth below.

1. Amend § 545.6–10(a), (c)(1) and (f)(1) to read as follows:

§ 545.6–10 Community development loans and investments.

(a) *General.* A Federal association may invest in real property, or in interests in real property, located within any of the following areas, and in loans on the security of liens, and in other obligations secured by liens, on real property so located: (1) Any neighborhood strategy area (as defined in 24 CFR 570.301(c)) receiving concentrated development assistance under Title I of the Housing and Community Development Act of 1974, as amended; (2) Any general location (as specified in 24 CFR 570.306(b)(3)(ii)) which is specified in a community's Housing Assistance Plan (as defined in 24 CFR 570.306) as an area for housing assistance goals and which is receiving such concentrated assistance; (3) Any urban renewal area (as defined in section 110(a) of the Housing Act of 1949, as amended) receiving such concentrated assistance in order to

finish uncompleted urban renewal projects; and (4) Any locales specified by a community as receiving Urban Development Action Grants or otherwise receiving significant amounts of such concentrated assistance.

* * * * *

(c) *Investments in other obligations secured by lien.* An association may invest under this section in other obligations secured by lien on one or more of the following: other improved real estate, other dwelling units, and combinations of dwelling units, including homes and business property involving only minor or incidental business use. Such investment shall be subject to the following requirements: (1) The total amount of obligations secured by any such lien shall not exceed 80 percent of the value of the security property, and the obligation shall mature within 30 years;

* * * * *

(f) *Percent-of-assets limitation on investments.* (1) An association shall make no investment under this section in real property, or interests in real property, if the amount of the investment plus the amount outstanding in such investments under this section would total more than 2 percent of the association's assets. No investment under this section in a loan or other obligation secured by a lien on real property shall be made if the amount of the investment, plus the amount outstanding in all investments under this section, would total more than 5 percent of the association's assets. An investment in a loan on the security of a lien on real property located in areas specified in paragraph (a) of this section shall not be subject to the 5 percent-of-assets limitation in this paragraph if the investment is authorized by, and is within limitations of, the provisions of this Part 545 other than this section.

* * * * *

2. Amend § 545.8(b) to read as follows:

§ 545.8 Participations.

* * * * *

(b) *Exception.* Investments in loans under § 545.6–10(b) may be made in participation with other than approved lenders, as § 545.6–10(e) permits.

* * * * *

3. Amend the first two sentences of § 545.8–7(b) to read as follows:

§ 545.8–7 Percentage limitation on real estate loan investment.

* * * * *

(b) *Percentage limitations for specific types of loans.* Loan investments made under sections containing specific percentage limitations shall be subject to those limitations. Those sections are: § 545.6–2(a)(2) and (3) (loans on single-family or two-family dwellings), § 545.6–3(d)(4) (loans to facilitate trade-in or exchange), § 545.6–5 (developed building lot loans), § 545.6–6 (land acquisition and development loans), § 545.6–8 (loans for housing for the aging), § 545.6–10 (loans in areas receiving concentrated development assistance), § 545.6–11 (loans guaranteed under the Foreign Assistance Act of 1961), § 545.6–12(d) (non-conforming secured loans), and § 545.6–13 (Farmers Home Administration Rural Housing Program guaranteed loans) * * *

* * * * *

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

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79–25199 Filed 8–14–79; 8:45 am]

BILLING CODE 6720–01–M

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12 CFR Part 545

[No. 79–414]

Loans for Alteration, Improvement and Repair

Dated: August 2, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: Public Law 95–630 has provided in section 5(c)(1)(J) of the Home Owners' Loan Act for expanded authority for Federal associations to invest in alteration, home improvement and repair loans. This regulation implements that enlarged authority by removing the dollar ceiling on loans for single property alteration, improvement or repair and extending the permissible term for such loans from 15 to 20 years.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION, PLEASE CONTACT: Randall H. McFarlane, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202–377–6449).

SUPPLEMENTARY INFORMATION: Title XVII of Public Law 95–630, has made it possible, under Section 5(c)(1)(J) of the amended Home Owners' Loan Act, for Federal savings and loan associations to expand their investments in alteration, home improvement and repair loans on residential real estate. The Federal Home Loan Bank Board, by Resolution No. 79–240, dated April 19, 1979, proposed to implement that authority by amending § 545.6–12 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.6–12). The proposed amendment was published in the **Federal Register** on April 25, 1979, with an invitation for public comment until May 25, 1979.

The Bank Board has decided to amend § 545.6–12 basically as proposed. Thus the ceiling of $15,000 on loans for a single residential real property alteration, repair or improvement is eliminated, and such loans may be made without dollar limit. The Bank Board regards this action as appropriate in light of inflation and the increased interest in home rehabilitation. This liberalization will, however, be carefully monitored to ensure that utilization of the new authority is consistent with safe and sound operations. As a concommitant of removal of the $15,000 ceiling, the Bank Board also has authorized such loans to be made for a 20-year term instead of the 15-year term previously permitted.

Comment Summary

The Bank Board's request for comments drew thirteen responses, the majority of which supported the proposal as made. Only one commenter opposed the liberalization, regarding it as an invitation to unsound practices. Two others, however, expressed reservations about the wisdom of permitting a loan term of up to 20 years. On the other hand, another commenter suggested that the Bank Board consider eliminating the 20-year maximum maturity provision altogether once some experience has been gained as to its operation. Further suggestions were that the Bank Board eliminate the dollar amount ceiling on equipping loans, as well as the percentage-of-assets limitation on loans for equipping, alteration, improvement and repair; and that the maximum time permitted before a first payment must be made on the loans affected by the proposed regulation be extended from 120 days to 180 days. This latter extension was sought because of alleged difficulty in getting construction completed within 120 days, and to achieve competitive parity with State-chartered institutions in the respondent's State, Arizona, which enjoy a 180-day term.

Response. As indicated, the Bank Board believes its amendments to § 545.6–12 are consistent with current economic conditions, as well as safe and sound operation; however, actual experience with the liberalization will be carefully monitored, and regulatory adjustments made as needed. While the

Bank Board considered liberalizing the percentage-of-assets requirements affecting loans for alteration, improvement, and repair, it determined that such a step would have virtually no practical impact at this time and was therefore unnecessary. This question, however, could be reexamined at such time as the 20 percent limitation becomes a practical impediment to lending of this type.

The Bank Board determined that no removal of the dollar amount or percentage-of-asset limitations pertaining to equipping loans was justified. Such loans are only tangentially related to the provision of housing finance credit (being made for wall-to-wall carpets, refrigerators and the like), and the Bank Board's primary purpose in seeking liberalization in this area was to stimulate the upgrading of urban housing stock. Again, as a practical matter, it does not appear that the current limits on equipping loans are acting as a significant bar to such lending.

The recommendation that the Bank Board permit the first payment on a loan to be made up to 180 days after the loan is made is beyond the scope of the proposal and is not supported by the limited amount of information available to the Board on this matter. The Bank Board's information indicates that the vast majority of projects undertaken under § 545.6–12(b) can be completed within four months. Accordingly, no action will be taken at this time.

Accordingly, the Bank Board amends Part 545 by amending paragraph (b) of § 545.6–12 to read as set forth below.

§ 545.6–12 Nonconforming secured loans and loans without requirement of security.

* * * * *

(b) *Loans without requirement of security—general.* Without regard to any other provision of this Part, but subject to the percentage-of-assets limitation in paragraph (f), a Federal association may, after its board of directors adopts such a loan plan, invest in loans of the following type:

(1) Any loans, with or without security, for residential real property alteration, repair or improvement, or for equipping residential real property, if the following requirements are met:

(i) With respect to any such loan investment for equipping residential real property, the net proceeds of the loan investment plus the aggregate of the unpaid net proceeds of all other of the association's outstanding equipping loan investments relating to the same property made under this paragraph (b)(1) do not exceed $15,000; (ii) The property is located in the association's regular lending area; (iii) The loan is evidenced by one or more written evidences of debt; (iv) The loan is repayable in equal weekly, biweekly, monthly, bimonthly, or quarterly installments with the first installment due no later than 120 days from the date the loan is made and the final installment due no later than 20 years and 32 days from such date. However, the loan contract may provide for a first and/or final installment in an amount other than that of the regular installment, but such installment shall not be less than one-half of, nor more than one and one-half times, the amount of the regular installment; and (v) Investment in a loan for equipping residential real property meets the additional percentage-of-assets limitation in paragraph (f)(2).

* * * * *

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

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79–25200 Filed 8–14–79; 8:45 a.m.]

BILLING CODE 6720–01–M

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12 CFR Parts 545, 563, 571

[79–415]

Investment in State Housing Corporations

Dated: August 2, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: Public Law 95–630 has, in section 5(c)(1)(P) of the amended Home Owners' Loan Act, provided Federal savings and loan associations with expanded authority to invest in state housing corporation obligations which are secured by insured loans. These regulatory changes implement that authority.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION, PLEASE CONTACT: Randall H. McFarlane, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202–377–6449).

SUPPLEMENTARY INFORMATION: Title XVII of Public Law 95–630 has provided authorization under section 5(c)(1)(P) of the amended Home Owners' Loan Act for Federal associations to increase their investment in state housing corporation obligations secured by loans insured under the National Housing Act, as amended. The Federal Home Loan Bank Board, by Resolution No. 79–242, dated April 19, 1979, proposed to implement the expanded authority by amending Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) by revising § 545.7–3 and adding a new § 545.7–3a. The Bank Board has determined to adopt the amendments as proposed, with additional conforming amendments to § 563.9–5 of the Rules and Regulations for Insurance of Accounts, (12 CFR 563.9–5) which maintain equal investment authority for State-chartered institutions (as authorized by State law) and § 571.8, (12 CFR 571.8) which bring the cross-references in that provision up to date.

By companion Bank Board Resolution No. 79–416, adopted today, the Bank Board has issued a new § 545.7–11 to permit Federal association investment in State and local government obligations, including state housing corporation investments not covered by Federal insurance.

The instant amendments repeal paragraph (b) of § 545.7–3, and create a new § 545.7–3a dealing with insured state housing corporation investments.

Under § 545.7–3(b), Federals having reserves, surplus and undivided profits aggregating more than 5 percent of their withdrawable accounts could invest in or lend to state housing corporations in their home State to the same extent as could state-chartered institutions. Loans and commitments to such bodies were limited by regulation to 5 percent of an association's net worth.

Under new § 545.7–3a, Federals, without regard to any eligibility criteria relating to their financial condition, can make investments in, commitments to invest in, loans to, or commitments to lend to any state housing corporation, provided that the obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lein on improved real estate which is insured under the National Housing Act as amended, and that, in the event of default, the holder of such obligations or loans has the right directly, or indirectly through a fiduciary, to subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds. Aggregate outstanding direct investment and investment in loans and loan commitments by a Federal association under proposed § 545.7–3a may equal up to 30 percent of the institution's assets at the time of investment, but investments in state housing corporations located outside the assocation's home State may not exceed

10 percent of such assets. Investments, loans, and commitments under § 545.7–3a are not covered by the percent-of-assets provisions of § 545.8–7.

COMMENT SUMMARY: Eight comments were received on the proposal, the majority of which supported it. However, one commenter suggested that the 30 percent of asset authority be lowered to 10 percent to avoid over-concentration, while another commenter suggested that, after some time has passed, the Bank Board should consider eliminating the 30 percent ceiling altogether.

Response: While the Bank Board could have authorized unlimited investment, it believes that, as a practical matter, the 30 percent figure should allow ample opportunities for this type of investment in State Housing Corporations for some time to come, without inviting excessive involvement. Further, the Bank Board believes the investments, in view of the existence of Federal insurance, will be consistent with safe and sound operation.

Other commenters suggested a need to retain authority for direct equity investments in state housing corporations, and urged adoption of a definition of such organizations.

Response: The Bank Board has not acted to preserve the authority of Federals to make direct equity investments in state housing corporations because Congress has removed that authority, which formerly appeared in section 5(c) of the Home Owners' Loan Act. The Bank Board will not, however, take action to compel Federals who acquired such securities under prior law to dispose of them. Under revised § 563.9–5, the amount of equity investments permitted State-chartered institutions in state housing corporations will no longer be governed by a Bank Board imposed percent-of-assets restriction, but will instead be ruled by State law.

Adoption of a definition of state housing corporation would be redundant given the definition already appearing in § 571.8.

A suggestion was made that a limitation of $250,000 on investment in business development credit corporations be deleted.

Response: The $250,000 limitation is set by statute, and thus is not susceptible to alteration by the Bank Board.

PART 545—OPERATIONS

Accordingly, the Bank Board hereby amends Part 545 of the Rules and Regulations for the Federal Savings and Loan System, by amending § 545.7–3 thereof and adding a new § 545.7–3a thereto and amending Parts 563 and 571 of the Rules and Regulations for Insurance of Accounts, by amending §§ 563.9–5 and 571.8 thereof, respectively, to read as set forth below.

1. Amend § 545.7–3 to read as follows:

§ 545.7–3 Loans to and investments in business development credit corporations.

Notwithstanding any other provisions of this part, a Federal association whose general reserves, surplus, and undivided profits aggregate more than 5 percent of its withdrawable accounts may invest in, lend to, or commit itself to lend to any business development credit corporation incorporated in the State in which the association's home office is located, in the same manner and to the same extent as the statutes of that State authorize a savings and loan association organized under the laws of that State to so invest, lend, or commit itself to lend; provided, that the aggregate amount of investments, loans, and commitments to such a corporation outstanding at any time shall not exceed the lesser of one-half of one percent of the total outstanding loans of the association or $250,000. Loans and other investments made under this section shall not be included in percentage-of-assets limitations under § 545.8–7.

2. Amend Part 545 by adding new § 545.7–3a to read as follows:

§ 545.7–3a State Housing Corporation Investment—insured.

(a) Any Federal association may make investments in, commitments to invest in, loans to, or commitments to lend to any state housing corporation (as defined in § 571.8), provided that such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the National Housing Act, as amended, and that in the event of default, the holder of such obligations or loans has the right directly, or indirectly through a fiduciary, to subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds.

(b) The aggregate outstanding direct investment and investment in loans and loan commitments under paragraph (a) shall not exceed 30 percent of the association's assets at the time of investment, and shall not exceed 10 percent of such assets for investments in state housing corporations located outside the association's home state.

(c) Investments, loans, and commitments under this section are not subject to the provisions of § 545.8–7.

PART 563—OPERATIONS

3. Amend § 563.9–5 to read as follows:

§ 563.9–5 Investment in State Housing Corporations.

(a) Any insured institution, to the extent it has legal authority to do so, may make investments in, commitments to invest in, loans to, or commitments to lend to any state housing corporation (as defined in § 571.8); provided, that such obligations or loans are secured directly, or indirectly through a fiduciary, by a first lien on improved real estate which is insured under the National Housing Act, as amended, and that in the event of default, the holder of such obligations or loans has the right directly, or indirectly through a fiduciary, to subject to the satisfaction of such obligations or loans the real estate described in the first lien, or the insurance proceeds. The aggregate outstanding direct investment and investment in loans and loan commitments under this paragraph shall not exceed 30 percent of the association's assets at the time of investment, and shall not exceed 10 percent of such assets for investments in state housing corporations located outside the association's home State.

(b) Any insured institution whose general reserves surplus and undivided profits aggregate more than 5 percent of its withdrawable accounts may, to the extent it has legal authority to do so, invest in obligations (including loans) of or issued by any state housing corporation incorporated in the State in which such insured institution has its principal office; provided (except with respect to loans), that (i) the obligations are rated in one of the four highest grades as shown by the most recently published rating made of such obligations by a nationally recognized rating service; or (ii) the obligations, if not rated, are approved by the Corporation. The aggregate outstanding direct investment in obligations under this paragraph shall not exceed the amount of the association's general reserves, surplus and undivided profits, and no more than 25 percent of the aggregate outstanding investment may be invested in obligations issued by any one state housing corporation.

(c) Any insured institution whose general reserves, surplus and undivided profits aggregate more than 5 percent of its withdrawable accounts, to the extent it has legal authority to do so, may make direct equity investments in equity

securities of any State Housing corporation incorporated in the State in which the association's home office is located.

(d) Each State Housing Corporation in which an insured institution invests under the authority of paragraphs (b) and (c) shall agree, before accepting any such investment (including any loan or loan commitment), to make available at any time to the Corporation such information as the Corporation may consider to be necessary to ensure that investments are properly made under this section.

PART 571—STATEMENTS OF POLICY

4. Amend § 571.8 to read as follows:

§ 571.8 Investment in State Housing Corporations.

Sections 545.7–3a, 545.7–11, and 563.9–5 of this chapter authorize investment by Federal associations and regulate investment by State-chartered insured institutions, in state housing corporations under section 5 of Pub. L. 93–100, and Title XVII of Pub. L. 95–630. A "state housing corporation" is defined by section 5(e)(3) of Pub. L. 93–100 as "a corporation established by a State for the limited purpose of providing housing and incidental services, particularly for families of low and moderate income." The Bank Board believes the investment authority thereby provided is meant to be restricted to investment in (1) public corporations and agencies, and instrumentalities thereof, established for such limited purpose, and (2) private corporations and agencies established under a statute which specifically limits them to the same purpose.

(Sec. 5. 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorganization Plan No. 3 of 1947, 12 FR 4981; 3 CFR 1943–48 Comp. p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79–25201 Filed 8–14–79; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 2

Nonadjudicative Procedures

AGENCY: Federal Trade Commission.

ACTION: Rule.

SUMMARY: The Federal Trade Commission, pursuant to 15 U.S.C. § 46(g), is revising its Rules of Practice to authorize the Deputy Directors of the Bureaus of Competition and Consumer Protection to approve and reject compliance reports, and to close compliance investigations.

EFFECTIVE DATE: August 15, 1979.

FOR FURTHER INFORMATION CONTACT: Eli Chaparro or Toby Singer, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3818, (202) 523–3785.

SUPPLEMENTARY INFORMATION: The Commission's Rules of Practice currently delegate to the Bureau Directors authority both to approve compliance reports and to employ compulsory process where necessary to determine whether final rejection of a report and initiation of a civil penalty action should be recommended to the Commission. The basis for this delegation of authority is that the percentage of compliance reports involving violations of consent decrees, which require resolution of compliance issues by the Commission, is extremely small. The processing of compliance reports is therefore handled more effeciently when directly acted upon by the Bureau Directors themselves. For the same reason, the Commission has now determined that the processing of compliance reports would be aided if the Deputy Directors could act directly upon them as well.

In consideration of the foregoing, the Commission hereby amends its Rules of Practice as follows:

PART 2—NONADJUDICATIVE PROCEDURES

By amending § 2.41(b) to read as follows:

§ 2.41 Reports of compliance.

* * * * *

(b) The Commission has delegated to the Directors and Deputy Directors of the Bureaus of Competition and Consumer Protection, without power of redelegation, the authority to approve compliance reports, reject compliance reports, and to close compliance investigations. This delegation does not apply to compliance with orders involving section 7 of the Clayton Act, to any matter which has received previous Commission consideration as to compliance or in which the Commission or any Commissioner has expressed an interest, any matter proposed to be closed by reason of expense of investigation or testing, or any matter involving substantial questions as to the public interest, Commission policy or statutory construction, in each of which type of case a report with recommendation will be made to the Commission. The approvals, rejections, and closings shall not be effective until the file relating to the subject matter has been transmitted to the Secretary and he shall have advised the Commission of the Bureau Director's or Deputy Director's determination and, within five (5) working days after receiving notice of the determination from the Secretary, no Commissioner has directed that the matter be placed on a meeting agenda or otherwise stayed for further consideration. Thereupon, the Secretary shall enter upon the records of the Commission the determination of the matter and take such other action as is required.

* * * * *

(15 U.S.C. § 46(g))

By direction of the Commission dated July 24, 1979.

Carol M. Thomas,

Secretary.

[FR Doc. 79–25195 Filed 8–14–79; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Parts 404 and 416

Employee's Benefits; CFR Correction

In the April 1, 1979 revision of Title 20 (Parts 400–499) of the Code of Federal Regulations, Part B of Appendix 1 to Subpart I in Part 416 was inadvertently omitted. This material was originally published at 40 FR 31786, July 29, 1975, and last appeared on page 499 of the 1978 revision of Title 20 (Parts 400–499). This material remains in full force and effect and will appear in the 1980 revision of Title 20.

In the April 1, 1979 revision of Title 20 of the Code of Federal Regulations (Parts 400–499), in Part 404, Subpart P, Appendix 2, on page 385, and in Part 416, Subpart I, Appendix 2, on page 562, the entry for Rule 202.07 in Table No. 2 should be corrected to read as follows:

Under the heading "Education" change "Limited or less" to "High school graduate or more—does not provide for direct entry into skilled work[2]."

BILLING CODE 6820–27–M

DEPARTMENT OF STATE

22 CFR Part 6a

[Departmental Regulation 108.781]

Privacy Act Policies and Procedures; Specific Exemptions of Systems of Records

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department now proposes to exempt the records of the Special Assignments Staff and the Command Center, both of which are part of the Security Records (STATE–36) from certain provisions of the Privacy Act.

EFFECTIVE DATE: July 14, 1979.

FOR FURTHER INFORMATION CONTACT: Sharon B. Kotok, Chief, Information and Privacy Staff (202) 632–1267.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** (44 FR 33891, June 13, 1979) inviting interested persons to submit comments concerning this amendment by July 13, 1979. Because no unfavorable comments were received, the proposed amendment is adopted, without change, as set forth below.

Section 6a.6, paragraph (h) is now revised to read as follows:

§ 6a.6 Exemptions.

* * * * *

(h) Records originated by another agency when that agency has determined that the record is exempt under 5 U.S.C. 552a(j). Also, pursuant to section (j)(2) of the Act, records compiled by the Command Center, the Passport and Visa Fraud Branch, and the Special Assignments Staff, all of which are components of the Office of Security, may be exempt from the requirements of any part of the Act, except subsections (b); (c) (1) and (2); (e)(4) (A) through (F); (e) (6), (7), (9), (10), and (11); and (i), to the extent necessary to assure the effective completion of the investigative, judicial, and protective processes.

* * * * *

(Sec. 4 of the Act of May 26, 1949, as amended (63 Stat. 101; 22 U.S.C. 2658); Pub. L. 93–579, 88 Stat. 1897; 5 U.S.C. 552a.)

Dated: July 24, 1979.

For the Secretary of State.

Ben H. Read,

Under Secretary for Management.

[FR Doc. 79–25193 Filed 8–14–79; 8:45 a.m.]

BILLING CODE 4710–05–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[T.D. 7613]

Manufacturers and Retailers Excise Taxes; Definition of Price for Purposes of Manufacturers Tax; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document contains technical corrections to the **Federal Register** publication at 44 FR 23824 of the full text of the regulations which were the subject of Treasury Decision 7613, relating to definition of price for purposes of the manufacturers tax.

EFFECTIVE DATE: The regulations are generally effective for sales made after December 31, 1958.

FOR FURTHER INFORMATION CONTACT: Stephen J. Small of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3287 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On April 23, 1979, the **Federal Register** published Treasury Decision 7613 (FR Doc. 79–12512) at 44 FR 23823. The principal purpose of the amendments made by the Treasury decision was to supersede all not previously superseded Manufacturers Excise Tax Regulations issued under the Internal Revenue Code of 1939.

Need for Corrections

As published, the full text of the regulations which were the subject of Treasury Decision 7613 inaccurately contains a phrase that is not in § 48.4216(b)–2(b) as set forth in the Treasury decision document and also contains a cross-reference to that phrase in § 48.4216(b)–4(f).

Drafting Information

The principal author of these corrections was Stephen J. Small of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service.

Correction of Publication

Accordingly, the publication of the full text of the regulations which were the subject of FR Doc. 79–12512 is corrected by deleting from the fifth sentence of § 48.4216(b)–2(b) at 44 FR 23825, the phrase ", or the lowest price for which articles are sold by manufacturers to retail dealers," and by deleting from § 48.4216(b)–4(f)(1) at 44 FR 23827, the reference "48.4216(b)–2(b),".

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79–25236 Filed 8–14–79; 8:45 a.m.]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 168

[DoD Directive 1130.2] [1]

Management and Control of Engineering and Technical Services

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule revises Department of Defense (DoD) policies and criteria for management, programming administration, and reporting of engineering and technical service personnel. New equipment and systems require a transfer of technical knowledge from producer to DoD personnel or user, that continues until the user is capable of maintaining and operating the new equipment and systems. Under the provisions of this rule, DoD personnel may use engineering and technical services to assist them in this transfer of knowledge.

EFFECTIVE DATE: June 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Mason, Office of Deputy Assistant Secretary of Defense (Supply, Maintenance, and Services) OASD(MRA&L), The Pentagon, Washington, D.C. 20301, Telephone 202–695–5315.

SUPPLEMENTARY INFORMATION: In FR Doc. 67–10297 appearing in the **Federal Register** on September 2, 1967 (32 FR 12718) the Office of the Secretary of Defense published Part 168. This revision of Part 168 clarifies administrative procedures on the use by DoD personnel of technical and engineering services.

Accordingly, we are revising Chapter I, 32 CFR, Subchapter E, Part 168, reading as follows:

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120. Attention: Code 301.

PART 168—MANAGEMENT AND CONTROL OF ENGINEERING AND TECHNICAL SERVICES

Sec.
168.1 Reissuance and purpose.
168.2 Applicability.
168.3 Policy.
168.4 Responsibilities.
168.5 Reports.
168.6 Definitions.
Enclosure 1—Administration.

Authority: The provisions of this Part 168 issued under Title 5 U.S.C. 301, and Title 5 U.S.C. 552.

§ 168.1 Reissuance and purpose.

This Part reissues and restates the policies and criteria for management, programming administration, and reporting of engineering and technical service personnel; and supports the policies contained in DoD Directive 4151.16,[1] "DoD Equipment Maintenance Program," August 30, 1972, and 32 CFR 179.

§ 168.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments and the Defense Agencies (hereafter referred to as "DoD Components").

§ 168.3 Policy.

The introduction of new equipment and systems requires the transfer of technical knowledge from producer to DoD personnel or user. This transfer must continue until the user is capable of maintaining and operating the equipment and systems. Under the provisions of this Part, DoD Components may use engineering and technical services to assist in this introduction and transfer. In order for DoD Components to achieve in-house self-sufficiency as early as possible, the following services shall be available to them.

(a) When the use of *contract plant services* are required, these services should be used before delivery of the equipment/systems.

(b) *Engineering and technical services* shall be provided to DoD users of equipment and systems on site, primarily through DoD engineering and technical services specialists. Each DoD Component shall ensure that the knowledge, training, and skill of its specialists are maintained properly.

(c) Services by *field service representative* personnel may be provided when necessary to ensure adequate advice or liaison between manufacturers and the users. Field service representative personnel providing these services shall be accredited by the DoD Components receiving their services, as provided in enclosure 1.

(d) *Contract field services* shall be used only when necessary to accomplish a military mission and when provision of services by DoD personnel is impractical. In these cases, the use of contract field services is limited to a period not to exceed 12 months after the Components achieve self-sufficiency in the use of the new equipment or system. Exceptions to this 12-month limitation may be granted by the Secretary of a Military Department, by the Director of a Defense Agency, or by their designees.

(1) Contract field services shall be used only when:

(i) In-plant technical training and acquisition of engineering knowledge have not been adequate because of the complexity of new equipment and systems, and a period of on-site contract field service indoctrination and training of DoD personnel is needed; or

(ii) An urgent requirement develops after the introduction of the equipment or system for additional reliability evaluation, training, or maintenance that cannot be supplied by DoD personnel or contract training.

(2) Contract field services shall be acquired through a separate service contract, or shall be included as an identifiable line item within an end item acquisition contract. Personnel performing services under these contracts shall be under the supervision, direction, and control of their company. Contracts covering contract field services will show the work months and cost of these services and will define the work to be performed.

(3) Contract field services personnel providing engineering and technical services shall not be:

(i) Placed in positions where they are appointed or employed by a Federal officer, or are under the supervision, direction, or evaluation of a Federal officer, military or civilian.

(ii) Placed in a policy-making position.

(iii) Placed in a position of command, supervision, administration or control over DoD military or civilian personnel, or personnel of other contractors.

(iv) A part of the Government organization.

(v) Used to avoid manpower ceilings or other personnel rules and regulations of the Department of Defense or the Office of Personnel Management.

§ 168.4 Responsibilities.

(a) *Heads of DoD Components* shall administer the engineering and technical services procedures that are contained in enclosure 1 of this Part.

(b) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)*, after consultation with representatives of the Office of Personnel Management, shall grant exceptions to the policy contained in § 168.3.

§ 168.5 Reports.

Reviews of contract engineering and technical services shall be conducted annually in accordance with the provisions of this Part, and reported under functional category T813 of 32 CFR 169a.

§ 168.6 Definitions.

(a) *Engineering and Technical Services.* Advice, instruction, and training in the installation, operation, and maintenance of weapon systems, equipment, and components used by DoD Components. These services are provided by qualified DoD military and civilian personnel, or by employees of defense contractors.

(b) *DoD Engineering and Technical Services Specialists.* DoD military and civilian personnel technically qualified to provide advice, instruction, and training in the installation, operation, and maintenance of DoD weapon systems, equipment, and components.

(c) *Contractor Engineering and Technical Services.* Engineering and technical services performed by defense contractors. Contractor engineering and technical services consist of:

(1) *Contract Plant Services.* Engineering and technical services and technical training provided to DoD personnel by a manufacturer of military weapon systems, equipment, or components. These services are provided in the manufacturer's facilities by engineers and technicians employed by the manufacturer so that specialized skills, knowledge, experience, and technical data concerning the manufacturer's equipment and systems may be acquired by DoD personnel, enabling them to gain the technical skills and knowledge required for installing, maintaining, and operating such equipment.

(2) *Contract Field Services.* Engineering and technical services provided to DoD personnel by defense contractors employed by a manufacturer of military equipment or systems.

(3) *Field Service Representative.* An employee of a manufacturer of military equipment or systems who provides a liaison or advisory service between the manufacturer and the military users of the manufacturer's equipment or systems.

Enclosure 1—Administration

1. The requirements for and the use of contract plant services, contract field services, and DoD engineering and technical services specialists; and the number of accredited field services representative shall be reviewed annually at Military Department or Defense Agency headquarters level to:

a. Ensure that contractor services are being used properly and are providing adequate services in accordance with the contract.

b. Assess the achievements of military readiness standards for equipment installation, operation, and maintenance.

c. Ensure adequacy of channels of communication between the manufacturer and DoD users of military equipment and systems.

d. Identify requirements related to immediate needs and to the updated Five Year Force Structure.

e. Determine need for any change in policy or procedures.

f. Provide data for annual reports.

2. Computation of requirements and programming for engineering and technical services shall be expressed in terms of workmonths and in dollar costs.

3. DoD Components shall reflect the policies outlined in this Part in functional areas using engineering and technical services.

4. Data required to support budget estimates shall separately identify the requirements for contractor engineering and technical services.

5. Management, policy direction, and control over engineering and technical services shall be exercised through the existing management structures of the Office of the Secretary of Defense and DoD Components. However, a single office at the headquarters level of Military Departments or Defense Agencies shall be assigned the responsibility for coordinating and maintaining cognizance over all engineering and technical services used, including those provided by contract plant services, contract field services, and field service representatives. This office shall:

a. Ensure that requirements for DoD and contractor engineering and technical services personnel represent valid needs.

b. Coordinate requests for funds and manpower spaces for engineering and technical services to ensure optimum utilization of contractor and in-house effort.

6. Acquisition of contractor engineering and technical services shall conform to Defense Acquisition Regulations and shall include the requirement that contracts will show workmonths and dollar costs for services, or that these services will be included as identifiable line items (showing workmonths and dollar costs) for services in end-item acquisition contracts (32 CFR 160).

7. Contract field service and field service representative personnel, although under the control of their companies, shall be subject to the administrative and security regulations of the defense location where they work. Arrangement for the security, identification, logistic support, and transportation for contract field service and accredited field service representative personnel shall conform with the procedures specified below:

a. *Security Clearances.* Security clearances shall be processed in accordance with DoD 5220.22–R, "Industrial Security Regulation," January 29, 1979 and DoD Components shall be responsible for ensuring that all security requirements are met.

b. *Identification.* Identification for contract field service personnel and accredited field service representative personnel shall be provided by the standard identification and privilege card, in accordance with DoD Instruction 1000.13 [1], "Identification Cards for Issue to the Members of the Armed Forces, Their Dependents and Other Qualified Personnel," May 23, 1972. When required, these personnel shall also be provided with the identification credentials specified by the Geneva Conventions in accordance with DoD Instruction 1000.1 [1], "Identify Cards Required by Geneva Conventions," January 30, 1974.

c. *Logistic Support.* Contract field service personnel, and field service representative personnel performing services at the request or with the concurrence of a DoD Component shall be provided logistics support overseas in accordance with DoD Directive 4000.6 [1], "Policy on Logistics Support of United States Nongovernmental, Nonmilitary Agencies and Individuals in Overseas Military Commands, January 23, 1976. Contract arrangements shall take into consideration the availability of these services in overseas and U.S. areas. It must be recognized that field service representative personnel have an obligation to render services for their company's products. In order to derive the maximum benefit from this type of technical service, DoD Components will grant sufficient latitude in the provision of logistics support, consistent with security requirements, to permit accredited field service personnel to carry out effectively their responsibilities to both Department of Defense and their company.

d. *Travel and Transporatation.* The provisions of DoD Directive 5154.20 [1], "Per Diem, Travel, an Transportation Allowances for DoD Civilian Personnel," June 23, 1964 shall be used as general guidelines in relation to matters of travel, transportation, and allowances for contract field service personnel. Accredited field service representative personnel may be provided Government transportation when necessary in support of military requirements. Contract arrangements shall take into consideration any Government transportation services provided.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

August 9, 1979.

[FR Doc. 79-25213 Filed 8-14-79; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1293-8]

Ohio State Implementation Plan for Sulphur Dioxide

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule amends the federally promulgated Ohio State Implementation Plan for sulfur dioxide. The regulation is being amended for 12 individual sources which petitioned the Agency to revise their emission limitations. A number of typographical errors in the previous regulation are corrected. Notice of the proposed rule was published in the September 27, 1978 **Federal Register** (43 FR 43729).

EFFECTIVE DATE: September 14, 1979.

FOR FURTHER INFORMATION CONTACT: Debra Costello, Paralegal Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2205.

SUPPLEMENTARY INFORMATION: On August 27, 1976, the Environmental Agency (the Agency) promulgated regulations establishing the State Implementation Plan (SIP) for the control of sulfur dioxide (SO_2) for the State of Ohio (41 FR 36324, amended November 10, 1976, 41 FR 52455, and on

May 31, 1977, 42 FR 27588). Following promulgation thirty-three corporations and all of the investor-owned utilities in Ohio filed petitions for review with the U.S. Court of Appeals for the Sixth Circuit. See *Cleveland Electric Illuminating v. EPA*, 572 F.2d 1150 (6th Cir., 1978); *Cincinnati Gas and Electric v. EPA*, 578 F.2d 660 (6th Cir., 1978). In order to resolve several individual source issues in that litigation, the Agency agreed to correct the data base for several sources and reanalyze emission limitations in Summit and Butler Counties. Other petitioners in the litigation case agreed to pursue individual SIP revisions in order to resolve their issues. Still other sources in Ohio have pursued SIP revisions in order to reflect changes in operation or different control strategies which are more economical for the source.

On September 27, 1978, U.S. EPA proposed an amendment to the regulation which included the Agency's reanalyzed regulation for Butler and Summit Counties, approved revisions for 12 sources, and the correction of several typographical errors, 43 FR 43729. The regulations pertaining to the 12 individual source revisions and the corrections to the typographical errors are being promulgated today. The regulations for Butler and Summit Counties are still under review and will be finalized at a later date.

A total of six public comments were received concerning the 12 individual source revisions. All of these comments were from the specific sources involved. The specific comments and changes in the regulation in response to the comments are listed below. None of these modifications substantively alters the character of the proposed regulation.

1. Bowling Green State University commented and the regulation has been corrected to indicate that the University is in Wood County rather than Lucas County.

2. Ashland Oil Company commented that its compliance schedule should run from the date its emission limitation is promulgated, pursuant to the Settlement Agreement entered into by Ashland and U.S. EPA on October 18, 1977. This has been corrected in the final regulation.

3. The Standard Oil Company in Allen County commented that the proposed regulation omitted emission limitations for two Standard Oil sources which remained unchanged. These limitations have been added to the final regulation for clarity. Also paragraph (12)(iv)(A) was revised to reflect that there is no crude charged to the catalytic cracking unit as indicated by Standard Oil. Additionally, Standard Oil Company commented that the maximum 24-hour base case ground level concentration should have been listed as 195 ug/m3 rather than 199 ug/m3 in the technical support document. This has been corrected. Finally, Standard Oil correctly commented that no PSD increment was consumed by its revision since the plan revision was submitted July 13, 1977. The technical support document has been amended to reflect this.

4. The Hoover Company commented that the emission limitation for the company was incorrectly listed as a combined number, 4.2 lbs. SO_2/MBtu. The correct limitations are 8.0 lbs. SO_2/MBtu for the coal-fired boiler and 0.4 lbs. SO_2/MBtu for the gas-fired boiler.

5. Oberlin College commented that the proposed regulation for the college incorrectly listed boilers No. 1 and 2 as oil-fired rather than coal-fired. This error has been corrected in the final regulation.

6. Wheeling-Pittsburgh Steel Corporation requested that the Agency recognize the natural variability in coal and specify a 30 day averaging period for demonstrating compliance with SO_2 limits. The Agency has stated that compliance with its sulfur dioxide regulations must be demonstrated by stack emission tests performed pursuant to procedures specified in 40 CFR 60.46. However, on February 15, 1978 (43 FR 6646) the Agency published a notice in the **Federal Register** setting forth an acceptable alternative to the stack test for demonstrating compliance. That alternative is fuel sampling based on a twenty-four (24) hour average. The Agency recognizes that there is an inherent variability in the sulfur content of coal and that random exceedances of the 24 hour fuel average may occur. Due to this variability in coal the Agency, as an indication of compliance will allow two exceedances, as determined by fuel sampling, at any single source in any consecutive thirty (30) day period, with each day completing a new 30 day period. Stack testing continues to be the primary means by which compliance is determined, and a single, completed stack test performed in accordance with approved methods that shows an emission rate greater than the allowable level would constitute a violation.

After review of all public comments and the support material for the revisions, the Administrator has determined that the revision meets the requirements of section 110 of the Clean Air Act and EPA regulations at 40 CFR Part 51; accordingly, the revisions are approved.

(42. U.S.C. 7410)

Dated: August 9, 1979.

Douglas M. Costle,

Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

SUBPART KKK—OHIO

1. In § 52.1875, the attainment date for sulfur dioxide in the table is revised for the Ashland Oil Company. This revision is reflected in footnote "f" to the table.

§ 52.1875 Attainment dates for national standards.

* * * * *

f. August 27, 1979 except for the companies listed in (1) which are subject to an attainment date of June 17, 1980, and the Ashland Oil Company which is subject to an attainment date of three years (from date of promulgation).

(1) Youngstown Sheet & Tube Co.; PPG Industries, Inc.; Wheeling-Pittsburgh Steel Corp.; Pittsburgh-Canfield Corporation; The Timken Company; the Sun Oil Co.; Sheller-Globe Corp.; The B. F. Goodrich Company; Phillips Petroleum Co.; Shell Oil Co.; Federal Paper Board Co., Inc.; The Firestone Tire & Rubber Co.; Republic Steel Corp.; Chase Bag Co.; White-Westinghouse Corp.; U.S. Steel Corp.; Interlake, Inc.; Austin Powder Co.; Diamond Crystal Salt Co.; The Goodyear Tire & Rubber Co.; The Gulf Oil Co.; The Standard Oil Co.; Champion International Corp.; Koppers Co., Inc.; General Motors Corp.; E.I. duPont de Nemours and Co.; Coulton Chemical Corp.; Allied Chemical Corp., Specialty Chemicals Division; The Hoover Co.; Aluminum Co. of America; Ohio Greenhouse Assoc.; Armco Steel Corp.; Buckeye Power, Inc.; Cincinnati Gas and Electric; Cleveland Electric Illuminating Light Co.; Columbus and Southern Ohio Electric; Dayton Power and Light Co.; Duquesne Light Co.; Ohio Edison Co.; Ohio Electric Co.; Ohio Power Co.; Pennsylvania Power Co.; Toledo Edison Co.

2. Section 52.1881 is amended by amending paragraph (b) as follows:

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(12) In Allen County:

* * * * *

(iv) The Standard Oil Company or any subsequent owner or operator of the Standard Oil Company facilities at Allen County, Ohio shall not cause or permit the emission of sulfur dioxide in excess of the rates specified below:

(A) 0.92 pounds of sulfur dioxide per 1000 pounds of total feed at the stack common to the Fluid Catalytic Cracker and the Carbon Monoxide Boiler. The

total feed is the charging stock to the catalytic cracking unit.

(B) 1.00 pounds of sulfur dioxide per million BTU actual heat input at the following:

(1) ISO Stabilizer and Split Heaters (OEPA B002).

(2) Crude II Heater (OEPA B004).

(3) Detailer (OEPA B005).

(4) Crude I Heater (OEPA B010).

(5) Coke Furnace (OEPA B011).

(6) Vac I Heater (OEPA B012).

(7) MEK Dewaxing Sec Heater (OEPA B013).

(8) Furfural Ert Sec Heater (OEPA B014).

(9) BH Boilers (OEPA B020).

(C) 100 pounds of sulfur dioxide per 1000 pounds of sulfur processed at the Claus Unit.

(D) 11.00 pounds of sulfur dioxide per ton of production at the Trolumen unit.

(E) 0.15 pound of sulfur dioxide per million BTU for all other boilers and process heaters.

(v) The Clark Equipment Co. or any subsequent owner or operator of the Clark Equipment Co. facilities at Allen County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 2.54 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(16) In Belmont County:

* * * * *

(i) The Wheeling Pittsburgh Steel Company or any subsequent owner or operator of the Martins Ferry steel plant in Belmont County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Martins Ferry facility in excess of 5.78 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(23) In Cuyahoga County * * *

* * * * *

(xxi) The Aluminum Company of America (ALCOA) or any subsequent owner or operator of ALCOA's Cleveland Works in Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 5.20 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(32) In Henry County:

* * * * *

(ii) The present or subsequent owner or operator of the City of Napoleon Power Plant in Henry County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Napoleon Power Plant in excess of 5.88 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(34) In Jefferson County * * *

* * * * *

(xii) No owner or operator of a by-product coke oven shall cause or permit the combustion of by-product coke gas oven containing hydrogen sulfide in exess of 50 grains per 100 dry standards cubic feet of coke oven gas.

(xiii) The Wheeling Pittsburgh Steel Company or any subsequent owner or operator of the Yorkville Steel Plant facility in Jefferson County, Ohio shall not cause or permit the emission of sulfur dioxide from any fossil fuel-fired steam generating unit stack at the Yorkville facility in excess of 5.62 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(35) In Lake County * * *

* * * * *

(v) The present or any subsequent owner or operator of the Erie Coke and Chemical Company facility in Lake County, Ohio shall not cause or permit the combustion of by-product coke oven gas for coke oven underfiring containing a total sulfur content expressed as hydrogen sulfide in excess of 450 grains of hyrogen sulfide per 100 dry standard cubic feet of coke oven gas. All existing boilers previously owned by Diamond Shamrock will remain at 0.0 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(38) In Lorain County * * *

* * * * *

(ix) Oberlin College or any subsequent owner or operator of the Oberlin College facility in Lorain County, Ohio shall not cause or permit the emission of sulfur dioxide in excess of the rates specified below:

(A) 6.92 pounds of sulfur dioxide per million BTU of actual heat input for coal-fired boilers No. 1 and 2.

(B) 0.35 pounds of sulfur dioxide per million BTU of actual heat input for oil-fired boiler No. 3.

(39) In Lucas County:

* * * * *

(iv) Standard Oil Company * * *

* * * * *

(D) 0.57 pounds of sulfur dioxide per million BTU actual heat input for process heaters or fossil fuel-fired steam-generating units numbered B009, B010, B020, B023, and B025.

* * * * *

(viii) Gulf Oil * * *

* * * * *

(F) 200 pounds of sulfur dioxide per 2000 pounds of sulfur processed for sulfur recovery plant.

* * * * *

(xiv) Sun Petroleum Products Company or any subsequent owner or operator of the Sun Petroleum Products Company facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Sun facility in excess of the rates specified below:

(A) Unless otherwise specified in this subparagraph, the combustion of refinery fuel gas containing a total sulfur content expressed as hydrogen sulfide in excess of 10 grains of hydrogen sulfide per 100 dry standard cubic feet of refinery fuel gas or the emission of sulfur dioxide from any stack at this facility in excess of 0.04 pounds of sulfur dioxide per million BTU actual heat input.

(B) 0.0 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units or process operation heaters numbered 502, 1901, 1902, 1903, 1904, 1905, and 1906.

(C) 3.00 pounds of sulfur dioxide per 1,000 pounds of charging stock for catalytic cracking units and CO boilers connected to the same stack.

(D) 1.80 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating unit numbered 1910.

(E) 1.60 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired process heater units numbered 507 and 508.

(F) 1.50 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired process heater unit numbered 301.

(G) 1.40 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired process heater units numbered 9401.

(H) 1.10 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired process heater units numbered 501 and 503.

(I) 0.90 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired process heater unit numbered 304.

(J) 70 pounds of sulfur dioxide per 1000 pounds of sulfur processed for sulfur recovery plants.

(K) Fossil fuel-fired process heater units numbered 501 and 503 will not be operated simultaneously with Fossil fuel-fired process heater unit number 507.

* * * * *

(40) In Mahoning County * * *

* * * * *

(vii) The Koppers Company or any subsequent owner or operator of the Koppers Company facilities located in Mahoning County, Ohio, shall not cause or permit the emission of sulfur dioxide from the stack connected to boiler number 3 in excess of 4.0 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(58) In Stark County:

* * * * *

(vi) The present or subsequent owner or operator of the Timken Company facilities in Stark County, Ohio shall not cause or permit the emission of sulfur dioxide from any fossil fuel-fired steam-generating unit(s) stack at this facility in excess of the rates specified below:

(A) 3.08 pounds of sulfur dioxide per million BTU actual heat input for the stack common to the fossil fuel-fired steam-generating units B001 and B002 at the Canton plant.

(B) 0.93 pounds of sulfur dioxide per million BTU actual heat input for the fossil fuel-fired steam-generating unit B003 at the Canton plant.

(C) 0.0 pounds of sulfur dioxide per million BTU actual heat input for the fossil fuel-fired steam-generating units B003 and B004 at the Gambrinus Plant.

(D) 0.67 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units at the Gambrinus Plant unless otherwise specified in this subparagraph.

* * * * *

(ix) The Ashland Oil Company, or any subsequent owner or operator of the Ashland Oil Company facilities in Stark County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the emission limitations listed below:

(A) 0.025 pounds of sulfur dioxide per million BTU actual heat input for units 4–0–B–3, 4–2–B–1, 4–2–B–2, and 4–27–B–1.

(B) 1.00 pounds of sulfur dioxide per million BTU actual heat input for all process heaters and fossil fuel-fired steam-generating units unless otherwise specified in this subparagraph.

(C) 0.62 pounds of sulfur dioxide per 1,000 pounds of charging stack for catalytic cracking units.

(D) 2.00 pounds of sulfur dioxide per 100 pounds of sulfur processed for sulfur recovery plants.

(E) Only two of the following three units may be operated simultaneously: 4–16–B–1, 4–16–B–2, and 4–16–B–12.

(x) The present or any subsequent owner or operator of the Hoover Co. in Stark County, Ohio shall not cause or permit the emission of sulfur dioxide in excess of 8.0 pounds of sulfur dioxide per million BTU actual heat input for the coal-fired boiler and 0.4 pounds of sulfur dioxide per million BTU actual heat input for the gas-fired boiler.

* * * * *

(60) In Trumbull County:

* * * * *

(iii) The Republic Steel Corporation or any subsequent owner or operator of the Republic Steel facilities in Trumbull County, Ohio, shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the rates specified below:

(A) 2.30 and 1.00 pounds of sulfur dioxide per million BTU actual heat input from fossil fuel-fired steam-generating units numbers B001, and B002 respectively. Boiler B003 is subject to the prevention of significant deterioration regulations and will receive an emission limit consistent with best available control technology requirements that will be specified as a condition in its pending construction permit. All other fossil fuel-fired steam generator units are limited to 0.00 pounds of sulfur dioxide per million BTU.

(B) 1.44 pounds of sulfur dioxide per ton of product at the Sinter plant.

(C) 0.00 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas from coke ovens number 1 and 2. Coke oven number 4 is subject to the prevention of significant deterioration regulation and an emission limitation of 35 grains of sulfur dioxide per 100 dry standard cubic feet.

(iv) [reserved]

* * * * *

(65) In Wood County * * *

* * * * *

(i) Bowling Green University or any subsequent owner of the Bowling Green facility in Wood County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 5.5 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

3. Section 52.1882 is amended as follows:

§ 52.1882 Compliance schedules.

* * * * *

(b) * * *

(1) Except as provided in paragraph (b)(5) of this section, the owner or operator of any process equipment subject to applicable subparagraphs of § 52.1881(b) shall comply with the compliance schedule in paragraph (b)(2) of this section.

* * * * *

(3) Except as provided in subparagraph (5) of this paragraph, the owner or operator of any stack venting any fossil fuel-fired steam-generating unit(s) subject to § 52.1881(b) of this chapter shall comply with the applicable compliance schedule in paragraph (b)(4) of this section.

* * * * *

(6) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedules in paragraphs (b)(2) or (4) of this section fails to satisfy the requirements of § 51.15(b) and (c) of this chapter.

(c) Federal compliance schedule for Ashland Oil Company is set forth in § 52.1882(b), except that all references to June 17, 1977 are changed to September 14, 1979.

(d) Monitoring and reporting requirement for non-simultaneous operation.

(1) Any owner or operator of any source of sulfur dioxide subject to a provision of § 52.1881 of this chapter which limits the combination of point sources which the source may operate at any time shall, in addition to any other reporting requirements of this chapter, comply with the following:

(i) Install not later than the date by which compliance with the applicable emission limitation of § 52.1881 is required a device(s) to determine and record the time of operation of each such point source;

(ii) Retain such records for at least two years; and

(iii) Report to the Administrator within 30 days of each such occurence any period during which sources are operated in any combination not allowed by an applicable requirement of § 52.1881.

[FR Doc. 79-25234 Filed 8-14-79; 8:45 am]

BILLING CODE 6560-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

47 CFR Parts 201 and 202

Telecommunications Emergency Preparedness: Corrections

AGENCY: Office of Science and Technology Policy.

ACTION: Final rule; corrections.

SUMMARY: The Office of Science and Technology Policy published final rules concerning telecommunications emergency preparedness in the **Federal Register** of June 11, 1979 (FR Doc. 79–18022; 44 FR 33408). This document corrects the authority citations in those rules, adds an explanatory note to one

section, and makes several minor technical corrections.

FOR FURTHER INFORMATION CONTACT: Wayne G. Kay, (202) 395–3272.

In FR Document 79–18022 appearing at pages 33404 through 33408 in the Federal Register of Monday, June 11, 1979, the following changes should be made:

Part 201—[Amended]

1. On page 33404, the authority note to the text preceding Sec. 201.0 is corrected to read as follows:

"**Authority:** 61 Stat. 496 (50 U.S.C. 401); 64 Stat. 798 (50 U.S.C. app. 2061); 64 Stat. 1245 (50 U.S.C. app. 2251); 90 Stat. 463 (42 U.S.C. 6611); E.O. 12046, March 27, 1978 (43 FR 13349 *et seq.*)."

§ 201.1 [Amended].

2. On pages 33404 and 33405 in Sec. 201.1, paragraph s (a)(1), (2), (4), (5), and (b) change each appearance of CFR to read: "U.S.C."

Part 202—[Amended]

3. On page 33405, the authority note to the text preceding Sec. 202.0 is corrected to read as follows:

"**Authority:** 61 Stat. 496 (50 U.S.C. 401); 64 Stat. 798 (50 U.S.C. app. 2061); 64 Stat. 1245 (50 U.S.C. app. 2251); 90 Stat. 463 (42 U.S.C. 6611); E.O. 12046, March 27, 1978 (43 FR 13349 *et seq.*)".

§ 202.1 [Amended]

4. On page 33406 in Sec. 202.1, paragraph (a), second line of text, insert word "of" after words "available for use".

§ 202.2 [Amended]

5. On page 33407, after paragraph (c)(4), Section 202.2, add the following note:

"**NOTE:** Recognizing that intercity public correspondence circuits may be needed for the transmission of precedence type message and calls (see Part 213 of this Chapter) the communications carriers will provide for the restoration of a minimum number of such circuits when restoring multichannel intercity facilities. The carriers will notify the FCC and the Manager, NCS, in event that such restoration would interfere with the restoration of certified priority services (see Part 211 of this Chapter). Reestablishment of additional public correspondence (toll) service may proceed to the extent feasible within the restrictions set forth in paragraph (c)(4) of this section."

Dated: August 6, 1979.

Frank Press,

Director, Office of Science and Technology Policy.

[FR Doc. 79–25151 Filed 8–14–79; 8:45 am]

BILLING CODE 3170–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1393]

Southern Pacific Transportation Co.; Authorized to Operate Over Tracks of the Kansas City Southern Railway Company

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1393.

SUMMARY: Service Order No. 1393 authorized the Southern Pacific Transportation Company to operate over approximately 3,500 feet of Kansas City Southern Railway Company tracks at Beaumont, Texas.

EFFECTIVE DATE: 11:59 p.m., August 8, 1979, until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275–7840

Decided: August 8, 1979.

The Commission several years ago approved a consolidation of trackage involving the Missouri Pacific Railroad Company, the Southern Pacific Transportation Company (SP), and The Kansas City Southern Railway Company (KCS), at Beaumont, Texas. This resulted in a compact, double-track line within the City of Beaumont serving these carriers, their train yards, and their shippers.

Recent traffic increases have strained this physical plant resulting in congestion. There is an alternate route available for SP over approximately 3,500 feet of KCS yard track at Beaumont, Texas. Use of this track by SP will allow SP trains, moving between the St. Louis-Memphis gateway and the Gulf Coast, to bypass the congested Beaumont yard. Use of this alternate track will reduce train delays, save fuel, and improve car utilization.

KCS has agreed to use by SP of this track. SP will file an application with the Commission for permanent authority to operate over this track.

It is the opinion of the Commission that an emergency exists requiring the operation of SP trains over these tracks of the KCS 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,

§ 1033.1393 Southern Pacific Transportation Company authorized to operate over tracks of the Kansas City Southern Railway Company.

(a) The Southern Pacific Transportation Company (SP) is authorized to operate over tracks of The Kansas City Southern Railway Company (KCS) at Beaumont, Texas, between a point opposite KCS milepost 766.70 and the connection to the SP Sabine Branch at SP milepost 29.95, a distance of approximately 3,500 feet.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the SP over tracks of the KCS is deemed to be due to carrier's disability, the rates applicable to traffic moved by SP over the tracks of the KCS shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) Nothing in this order shall be deemed to prejudge the decision of the Commission in the application of the SP seeking permanent authority to operate over these tracks of the KCS.

(e) *Effective date.* This order shall become effective at 11:59 p.m., August 8, 1979.

(f) *Expiration.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

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. 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 a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–25147 Filed 8–14–79; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 44, No. 159
Wednesday, August 15, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1040]

Milk in the Southern Michigan Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions that affect the regulatory status of milk supply plants. The action was requested by a cooperative association that represents a substantial proportion of the producers supplying the market. It would reduce the proportion of milk receipts at a supply plant that must be shipped to pool distributing plants during a month to qualify the supply plant for pooling. The proposed suspension would be for the period of October 1979 through March 1980.

DATE: Comments are due August 30, 1979.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southern Michigan marketing area is being considered for the months of October 1979 through March 1980:

In the first sentence of § 1040.7(b)(1), the words "40 percent" and "for each of the months of April through September". As suspended, that portion of the first sentence would read: "* * * not less than 30 percent of the total quantity * * *"

All persons who want to comment on the proposed suspension should send 2 copies of their comments to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before August 30, 1979.

The comments that are sent will be made available for public inspection at the Hearing Clerk's office during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would reduce for six months the proportion of milk receipts at a supply plant that must be shipped to pool distributing plants to qualify the supply plant as a pool plant. Presently, a supply plant must ship not less than 40 percent of the total quantity of Grade A milk received at the plant from producers or cooperative associations, or diverted from it to nonpool plants, to qualify as a pool supply plant during the months of October through March. The proposed suspension would reduce the proportion to 30 percent, the level which now applies during the months of April through September.

The suspension was requested by Michigan Milk Producers Association. The cooperative indicated that under a similar suspension for the months of October 1978 through March 1979, the unit of supply plants that it qualifies under the order shipped an average of 33 percent of the unit's receipts to pool distributing plants. It was claimed that these shipments were made by following normal marketing procedures and did not necessitate diverting to nonpool plants for manufacturing milk supplies that normally would be received at distributing plants directly from farms in order to make room at the distributing plants for qualifying shipments from supply plants.

The cooperative stated that during the past year there has been a shift of Class I sales out of the Southern Michigan market to the Ohio Valley market. It was noted that this shift occurred when the operator of a chain of stores opened a new plant that is regulated under the Ohio Valley order and began distributing milk in some areas that formerly were supplied by a Southern Michigan pool plant.

It is the cooperative's position that without the suspension it would be necessary, in order to qualify its system of supply plants, for the cooperative to "double-haul" considerable quantities of milk (i.e., shipping supplies normally received at distributing plants to nonpool plants in order to accommodate shipments of supply plant milk). The cooperative indicates that this would involve the needless use of gasoline and diesel fuel at considerable expense.

The cooperative association also has asked that the pooling standards in question be amended on the basis of a public hearing.

Signed at Washington, D.C., on: August 10, 1979.

William T. Manley

Deputy Administrator Marketing Program Operations.

[FR Doc. 79-25219 Filed 8-14-79; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

[7 CFR Parts 1804 and 1924]

Planning and Performing Development Work; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Correction of Proposed Rule document.

SUMMARY: The Farmers Home Administration corrects a document published July 6, 1979 at 44 FR 39432 to insert an "Addresses" section in the preamble. This section was inadvertently omitted from the original publication. To allow proper time for comments, the expiration date for comments is extended to October 12, 1979. The following "Addresses" section is added to the preamble:

ADDRESSES: Submit written comments, in an original and one conformed copy, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

DATE: Comment deadline extended to October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Colon, telephone (202) 447–

4808 or Mr. Larry Hammond (202) 447–7207.

Dated: August 9, 1979.

James E. Thornton,

Associate Administrator, Farmers Home Administration.

[FR Doc. 79-25128 Filed 8-14-79; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL RESERVE SYSTEM

[12 CFR Part 220]

[Reg. T; Docket No. R-0054]

Credit by Brokers and Dealers; Credit to Exchange Specialists

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: This revision of a proposed amendment to the rule governing credit to exchange specialists, which was published in the **Federal Register** on May 5, 1977 (42 FR 22894), contains changes based upon comments received on that proposal and recommendations of the Securities and Exchange Commission Special Study of the Options Market. As revised, the proposal will permit options specialists to both purchase and sell short the stock underlying the options in which they specialize, with a 25 percent margin requirement. No maintenance requirement is imposed in this revision unless the account, if sold out, would have an unsecured debit balance. The proposed amendment also recognizes new exchange rules approved by the Securities and Exchange Commission which permit traditional stock specialists to trade in puts and calls on their specialty stock and provides comparable relief for such hedging activities. This proposed rule is intended to give a certain amount of flexibility to the operations of brokers or dealers who finance the positions of those persons who have assumed responsibility for maintaining continuous markets in designated securities without permitting unwarranted speculation in the related securities used for "hedging".

DATE: Comments must be received on or before October 15, 1979.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D. C. 20551. All material submitted should be in writing and should include the docket number R–0054.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Chief Attorney, or Theodore W. Prush, Senior Securities Regulations Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D. C. 20551 (202–452–2781).

SUPPLEMENTARY INFORMATION: The May 5, 1977 proposal was intended to assist option specialists in performing their market-making function by permitting them, in certain circumstances, to purchase or sell short, on preferential credit terms, the securities underlying the options in which they specialize. A specialist is a person registered on a securities exchange as a specialist in a particular security. In general, a specialist is required to assist in maintaining a fair and orderly market, either alone or in a competitive framework, for that security on the floor of the exchange. Although market makers in the over-the-counter market are not presently within the category, the proposed rule provides for their inclusion if the SEC determines they have parallel responsibilities and functions. The revised proposal would broaden the scope of permitted offset transactions for lower priced options by redefining the definition of an "in or at the money" option "hedging" transaction. The proposal also eliminates the requirement that a creditor participate in all joint account arrangements, and permits a specialist or market-maker to use fully paid for government securities as collateral in his account. In addition, the proposal restricts "free-riding" in a market-maker account, and establishes the conditions under which excess funds or securities may be withdrawn from the account.

To aid in the consideration of this material by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D. C. 20551 to be received not later than October 15, 1979. All material submitted should include the docket number R–0054. Such information will be made available for inspection and copying upon request except as provided in section 261.1(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

Pursuant to sections 7 and 23 of the Securities and Exchange Act of 1934, as amended (15 U.S.C. 78g and w) the Board proposes to amend 12 CFR Part 220 as follows:

Section 220.4(g) is revised to read as follows:

§ 220.4 Special Accounts.

* * * * *

(g) Specialist's account. (1) In a specialist's account, a creditor may effect, carry or clear for specialists who are members of a national securities exchange or registered securities association such member's designated specialist transaction or transactions of any joint account in which all participants other than the creditor, are registered and act as specialists.

(2) A specialist in options is permitted to establish in this account a long or short position in the securities underlying the options in which the specialist makes a market, and a specialist in securities other than options is permitted to purchase or write options overlying the securities in which the specialist makes a market, only under one or more of the following conditions (such transactions are referred to in this paragraph as "permitted offset transactions"):

(i) The account holds short options positions which are "in or at the money" and are not offset by long or short options positions for an equal or greater number of shares of the same underlying securities which are "in or at the money;"

(ii) The account holds long options positions which are "in or at the money" and are not offset by long or short options positions of an equal or greater number of shares of the same underlying securities which are "in or at the money;"

(iii) The account held a short option position against which an exercise notice was tendered;

(iv) The account held a long option position which was exercised;

(v) The account holds net long positions in securities other than options in which the specialist makes a market; or,

(vi) The account holds net short positions in securities other than options in which the specialist makes a market.

(3) The maximum loan value of securities which may be used as collateral in the account shall be:

(i) No more than 100 per cent of the current market value of long positions in securities in which the specialist makes a market;

(ii) No more than 100 per cent of the current market value of any wholly-owned margin securities or exempted securities issued by the U.S. Government or agencies thereof;

(iii) 75 per cent of the current market value of any underlying securities or overlying options that are purchased and held in the account under the terms

of paragraph (g)(2) of this section and for five full business days thereafter;

(iv) The maximum loan value prescribed by the Board in § 220.8 (the Supplement to Regulation T) when the underlying securities or overlying options no longer serve as permitted offsets.

(4) The amount to be included in the adjusted debit balance of the account shall be:

(i) Not less than 100 per cent of the current market value of either the securities sold short or the options written where such positions qualify as specialist transactions;

(ii) 125 per cent of the current market value of the securities sold short or the options written and held in the account under the terms of paragraph (g)(2) of this section and for five full business days thereafter;

(iii) The amount prescribed by the Board in § 220.8 (the Supplement to Regulation T) when the underlying securities or overlying options no longer serve as permitted offsets plus, for short positions in securities other than options, the current market value of the securities sold short.

(5) Except as required by paragraph (g)(8), on any day when additional margin is required as a result of transactions in the account, the creditor shall issue a call for a deposit of cash or securities having loan value and allow the specialist a maximum of five full business days to make a deposit sufficient to meet the call.

(6) On any day when the account of an options specialist no longer holds an option position against which the underlying security permitted to be purchased or sold short in the account under the terms of paragraph (g)(2) of this section can be offset, or when the account of a specialist in securities other than options no longer holds security positions against which the overlying options permitted to be purchased or written in the account under the terms of paragraph (g)(2) of this section can be offset, the creditor shall have five full business days to either liquidate the position or obtain a deposit into the account of cash or securities equal to the deposit that would be required to establish such a position in the general account, reduced by a sum equal to 25 percent of the current market value of the security. The requirement to liquidate the position or obtain additional margin need not be met if a new offsetting position is established in the interim. To prevent "free-riding" in the account, a creditor who has not obtained the required deposit is prohibited for a 30 day period from extending any further credit to finance in the account transactions in securities in which the specialist is not registered to make a market.

(7) On any day when a specialist requests a withdrawal of cash or securities from the account the creditor shall value non-specialist securities positions in the account in accordance with the provisions of § 220.8 (the Supplement to Regulation T) and value specialist positions on a "good faith" loan basis. Withdrawals shall be permitted to the extent that the debit balance in the account does not exceed the value of all of the positions.

(8) On any day when the account would liquidate to a deficit, the creditor shall not extend any further credit in the account, and shall issue a call for additional collateral which shall be met by noon of the following business day. In the event sufficient collateral is not deposited in the account the creditor shall liquidate existing positions in the account.

(9)(i) The provisions of this paragraph are available to a specialist (or a market-maker designated as a specialist) who is a member of a national securities exchange or registered securities association which submits to the Board of Governors of the Federal Reserve System reports suitable for supplying current information regarding the use of specialist credit;

(ii) The term "joint account" is an account in which the creditor may participate and which by written agreement permits the commingling of the security positions of the participants and provides for a sharing of profits and losses from the account on some predetermined ratio;

(iii) The term "underlying security" means the security which will be delivered upon exercise of the option and does not include a security convertible into the underlying security;

(iv) The term "overlying option" means (1) a put option purchased or a call option written against an existing long position in a specialist's or market-maker's account, or (2) a call option purchased or a put option written against a short position in a specialist's or market-maker's account.

(v) The term "in or at the money" means, with respect to a call option, that the current market price of the underlying security is not more than the greater of 5 per cent or $2.50 below the exercise price of the option, and, with respect to a put option, the current market price of the underlying security is not more than the greater of 5 per cent or $2.50 above the exercise price of the option.

By order of the Board of Governors of the Federal Reserve System, August 8, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-25125 Filed 8-14-79; 8:45 am]

BILLING CODE 6210-01-M

[12 CFR Part 220]

[Reg. T; Docket No. R-0158]

Credit by Brokers and Dealers; Loan Value for Mutual Fund Shares

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The proposal will permit brokers and dealers to extend credit on fully paid for mutual fund shares deposited in a general account. The present rule permits broker-dealers to extend and maintain credit only on securities registered on a national securities exchange, those included on the Board's List of OTC Margin Stock and on certain non-convertible debt securities which are traded in the over-the-counter market.

The Board intends the proposed rule to reduce significantly the inequity which exists between broker-dealers and banks, whyo are currently permitted to extend credit on mutual fund shares under Regulation U, and lenders registered with the Board under Regulation G who have the same authority.

DATE: Comments must be received on or before October 15, 1979.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material should be in writing and should include the docket number R-0158.

FOR FURTHER INFORMATION CONTACT: Patsy Abelle, Senior Attorney, or Theodore W. Prush, Senior Securities Regulations Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2781).

SUPPLEMENTARY INFORMATION: In response to a request of the Investment Company Institute the Board of Governors proposes to amend Regulation T (12 CFR 220) to permit borkers and dealers to extend and maintain credit on securities issued by open-end investment companies and unit investment trusts ("mutual fund shares"). the proposal would permit a broker or dealer to extend credit only on fully paid for mutual fund shares deposited in a margin account. Due to

the prohibition contained in section 11(d)(1) of the Securities Exchange Act of 1934 credit may not be extended on the initial purchase of such securities, in the absence of an exemption granted by the Securities and Exchange Commission.

Under the Board's existing rule a broker-dealer is permitted to extend and maintain credit only on securities registered on a national securities exchange, those included on the Board's List of OTC Margin Stock and on certain non-convertible corporate debt securities traded in the over-the-counter market. The Board's proposal would allow a broker-dealer to extend credit on mutual funds shares as well. Presently only banks under the provisions of Regulation U, and lenders registered with the Board under Regulation G are permitted to extend and maintain credit on investment company shares.

Mutual fund shares deposited in a margin account at a broker-dealer would be subject to the same margin requirement as any other margin security. The margin requirement is set forth in § 220.8(a) of Regulation T and is presently 50 per cent of current market value.

To aid in the consideration of this material by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than October 15, 1979. All material submitted should include the docket number R–0158. Such information will be made available for inspection and copying upon request except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

Accordingly, pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and w) the Board proposes to amend 12 CFR part 220 as follows:

Section 220.2(f) is revised to read as follows:

§ 220.2 Definitions.

* * * * *

(f) The term "margin security" means any registered security, OTC margin stock, OTC margin bond or any security issued by an open-end investment company or unit investment trust registered pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

By order of the Board of Governors of the Federal Reserve System, August 8, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79–25126 Filed 8–14–79; 8:45 am]

BILLING CODE 6210–01–M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 163]

[OPP–250021; FRL 1297–7]

Pesticide Programs; Guidelines for Registering Pesticides in the United States; Notification to the Secretary of Agriculture of a Proposed Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of proposed regulation.

SUMMARY: Notice is given under section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's proposed regulation to implement section 3(c)(2) of FIFRA, which requires the Administrator to publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide. Section 163.80–6 Additional General Provisions and § 163.80–7 Record Retention and Additional Reporting Requirements of Subpart F (Hazard Evaluation: Humans and Domestic Animals) are the portions of the guidelines involved. These sections deal with good laboratory practices for those establishments that are developing data to meet the toxicology test requirements described in Subpart F.

FOR FURTHER INFORMATION CONTACT: William Preston, Hazard Evaluation Division (TS–769), Office of Pesticide Programs, EPA, Washington, D.C. 20460 (703/557–1405).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall publish in the **Federal Register** (with the proposed regulation) the comments of the Secretary and the response thereto of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign such regulation for publication in the **Federal Register** any time after such 30-day period.

Pursuant to FIFRA section 25(a)(3), a copy of this proposed regulation has also been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Forestry, and Nutrition of the Senate. This section 3(c)(2) regulation was submitted to the FIFRA Scientific Advisory Panel on June 29, 1979, as required by section 25(d).

(Section 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended [Pub. L. 92–516, 89 Stat. 973; Pub. L. 94–140, 89 Stat. 751 (7 USC 136 et esq.)])

Dated: August 8, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–25231 Filed 8–14–79; 8:45 am]

BILLING CODE 6560–1–M

[40 CFR Part 52]

[FRL 1296–7]

Approval and Promulgation of State Implementation Plan: Nebraska

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The State of Nebraska has submitted a State Implementation Plan (SIP) for the Omaha carbon monoxide nonattainment area. The plan was required by the Clean Air Act as amended in 1977. Interested persons are invited to examine the Nebraska SIP revision and submit comments. A notice of proposed rulemaking describing the revisions will be published at a later date.

DATES: The period for submittal of comments will extend for 30 days after publication of the proposed rulemaking.

ADDRESSES: Comments should be sent to Robert L. Greenall, Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. The SIP can be examined during normal business hours at the above address and also at the following locations: Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460; Nebraska Department of Environmental Control, 301 Centennial Mall, Lincoln, Nebraska 68509. For further information contact Robert L. Greenall at 816–374–3791 or FTS 758–3791.

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act as amended in 1977, requires that states revise their SIPs to provide for the attainment of the National Ambient Air Quality Standards (NAAQS) in areas which have been designated nonattainment. The State of Nebraska has submitted a SIP revision in response to requirements of the Clean Air Act.

The purpose of this notice is to announce that the revision has been formally submitted and is available for public inspection. The public is encouraged to submit written comments. A description of the revision and proposed EPA action on the revision will be published in the Federal Register as part of a notice of proposed rulemaking at a later date.

Dated: August 2, 1979.

Kathleen Camin,

Regional Administrator.

[FR Doc. 79-25235 Filed 8-14-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 60]

[FRL 1297-3]

Standards of Performance for New Stationary Sources; Glass Manufacturing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Comment Period.

SUMMARY: The deadline for submittal of comments on the proposed standards of performance for glass manufacturing plants, which were proposed on June 15, 1979 (44 FR 34840), is being extended from August 14, 1979, to September 14, 1979.

DATES: Comments must be received on or before September 14, 1979.

ADDRESSES: Comments should be submitted to Central Docket Section (A-130), United States Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. OAQPS 79-2.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5271.

SUPPLEMENTARY INFORMATION: On June 15, 1979 (44 FR 34840), the Environmental Protection Agency proposed standards of performance for the control of emissions from glass manufacturing plants. The notice of proposal requested public comments on the standards by August 14, 1979. Due to delay in the shipping of the Background Information Document, sufficient copies of the document have not been available to all interested parties in time to allow their meaningful review and comment by August 14, 1979. EPA has received a request from the industry to extend the comment period by 30 days through September 14, 1979. An extension of this length is justified since the shipping delay has resulted in approximately a three-week delay in processing requests for the document.

Dated: August 8, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79-25233 Filed 8-14-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 81]

[FRL 1297-5]

Air Quality Control Regions, Criteria, and Control Techniques; Attainment Status Designations—California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rulemaking.

SUMMARY: This notice proposes to revise the attainment status designation of Tulare County, California for carbon monoxide (CO). On March 3, 1978 (43 FR 8973), under Section 107(d)(2) of the Clean Air Act (CAA), as amended, Tular County was designated nonattainment for CO (40 CFR 81.305). The EPA now proposes to redesignate Tulare County as attainment for CO.

EPA invites public comments on the proposed redesignation. If the area is redesignated attainment, the requirements of Title I, Part D, of the CAA, as amended, would no longer apply for CO in Tulare County.

DATES: Comments will be accepted if received on or before September 14, 1979.

ADDRESSES: Comment should be directed to:

Arnold Den, Chief, Air Technical Branch (A-4), Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Information pertinent to the proposed redesignation is available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Library (Room 2922), Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460.

EPA Region IX Library, 215 Fremont Street, San Francisco CA 94105.

California Air Resources Board, 1102 "Q" Street, Sacramento CA 95812.

Tulare County Air Pollution Control District, Health Building, County Civic Center, Visalia CA 93277.

FOR FURTHER INFORMATION CONTACT:

Morris I. Goldberg (A-4-3), Technical Analysis Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105, Phone: (415) 556-2463.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8973), under Section 107(d)(2) of the CAA, as amended, the EPA promulgated the State of California's designation of Tulare County as nonattainment for CO.

On March 19, 1979, the State requested redesignation of Tulure County as attainment for CO. The State noted that since 1975 no violations of the National Ambient Air Quality Standards (NAAQS) for CO have been detected in the County.

Under Section 107(d)(5) of the CAA, as amended, a state may revise its designations of attainment status and submit them to the EPA for promulgation. Based upon a review of the CO air quality data for Tulare County, the EPA believes that the NAAQS for CO have been attained.

If Tulare County is redesignated attainment for CO as proposed, the State would no longer be subject to the requirements of Part D of the CAA, as amended, for CO in Tulare County. However, Tulare County remains subject to the requirements of Part D until the EPA approves in a final rulemaking action the State's redesignation of Tulare County as attainment for CO.

The Environmental Protection Agency has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

(Secs. 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7801(a)))

Dated: August 6, 1979.

Sheila M. Prindivilla,

Acting Regional Administrator.

[FR Doc. 79-25232 Filed 8-14-79; 8:45 am]

BILLING CODE 6560-01-M

Notices

Federal Register
Vol. 44, No. 159
Wednesday, August 15, 1979

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.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Grain Standards Act Advisory Committee; Meeting

Pursuant to the provisions of Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following committee meeting:

Name: Grain Standards Act Advisory Committee.
Date: September 5, 1979.
Place: U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Room 2096, South Building, Washington, D.C. 20250.
Time: 9 a.m.
Purpose: To enable the members to discuss and make recommendations on the implementation of the Grain Standards Act of 1976, as amended.

The meeting is open to the public, but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting, should contact Dr. Leland E. Bartelt, Administrator, FGIS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: (202) 447–9170.

Dated: August 10, 1979.

D. R. Galliart,

Acting Administrator, Federal Grain Inspection Service.

[FR Doc. 79–25216 Filed 8–14–79; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Regional Plan; Pacific Northwest Region, Oregon and Washington; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Pacific Northwest Region Regional Plan.

The Regional Plan will be developed in accordance with the direction for land and resources planning developed pursuant to the National Forest Management Act of 1976. The Regional Plan will discuss:

(1) Long-range policy, goals, and objectives for the Region assigned by the National program;

(2) The expected ability of the Region to achieve the assigned output levels of goods and services;

(3) Resource objectives for the land in each National Forest Land and Resource Management Plan; and

(4) Guidelines to resolve public issues and management concerns, including at least maximum size dispersal and size variations for areas to be clear cut in one harvest operation; the biological growth potential to be used in determining the capability of land for timber production; recommended transportation corridors and associated standards for Forest Planning; potential uses of available air quality increments and the portion of the increment needed to implement Forest Plans; and the unit of measure for expressing mean annual increment of timber growth.

Tentative issues, concerns, and opportunities have been identified from past public input to RARE II, Resources Planning Act program proposals and other activities. These were presented to the public in July 1979. Oral and written responses were requested. No formal meetings are planned. From the input received and that provided by Forest Service officials and interested representatives of State, county, and local governments, a final set of issues, concerns, and opportunities will emerge which will guide the planning process.

Based on analysis of the final issues and concerns, a coordinated resource data base will be created. Alternatives for resource allocation and management will be developed, with the assistance of the public and other Governmental agencies, which will address the issues and management concerns.

It is anticipated that the Draft Environmental Impact Statement for the Pacific Northwest Region Regional Plan will be filed with the Environmental Protection Agency about June 1980. After public review and comment, the Final Environmental Impact Statement will be submitted about December 1980.

R. Max Peterson, Chief, Forest Service, U.S. Department of Agriculture, is the responsible official. The Interdisciplinary Team Leader for the Planning process has not yet been named.

Comments or questions on this Notice of Intent or the Planning process should be addressed to: Land Management Planning Team Leader, Planning, Programming, and Budgeting, USDA Forest Service, R–6, P.O. Box 3623, Portland, Oregon 97208 (Phone 503–221–3628).

Dated: August 9, 1979.

R. Max Peterson,

Chief.

[FR Doc. 79–25217 Filed 8–14–79; 8:45 am]

BILLING CODE 3410–11–M

Northern Region, States of Washington, Northern Idaho, Montana, North Dakota, and South Dakota; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for land and resource management, hereafter referred to as a Regional Plan, for the Northern Region.

Prior to the issuance of a Draft Environmental Impact Statement, the public will be invited to comment on Regional issues to be addressed in the plan. Contacts with representatives of Regional and National interest groups and coordination with Federal, State, and local governments and Indian tribes will occur.

R. Max Peterson, Chief, is the responsible official for the Regional Plan; and Tom Coston, Regional Forester, and his staff will prepare the statement. A Draft Environmental Impact Statement is expected to be issued early in 1980 and the Final Environmental Impact Statement in the summer of 1980. All documents related to the Regional Plan will be kept at the Northern Region's Regional Office, Federal Building, P.O. Box 7669, Missoula, Montana 59807.

Comments on the Notice of Intent or the Regional Plan should be sent to Tom

Coston, Regional Forester, Northern Region, Federal Building, Missoula, Montana 59807.

Dated: August 9, 1979.

R. Max Peterson,

Chief.

[FR Doc. 79-25218 Filed 8-14-79; 8:45 am]

BILLING CODE 3410-11-M

Southwestern Region; Tonto National Forest Grazing Advisory Board; Meeting

The Tonto National Forest Grazing Advisory Board will meet October 1, 1979 at 10 a.m. at the office of the Forest Supervisor, Tonto National Forest, located at 102 South 28th Street, Phoenix, Arizona.

The purpose of this meeting is to discuss the management alternatives for the Bar X Allotment identified in the Environmental Assessment Report prepared subsequent to the completion of comprehensive resource studies.

The meeting will be open to the public. Persons who wish to attend should notify Bruce Hronek, Supervisor, Tonto National Forest, 102 South 28th Street, Phoenix, Arizona 85002, telephone (602) 261-3205. Written statements may be filed with the Board or after the meeting.

Oral statements may be made by public attendees when recognized by the Chair.

Dated: August 8, 1979.

William E. Pint,

Acting Forest Supervisor.

[FR Doc. 79-25161 Filed 8-14-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Application for an All-Cargo Air Service Certificate

August 8, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 35914, from Century Air Freight, Inc. of South Ozone Park, New York for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of section 291.12(c) of Part 291, interested persons may file an answer in opposition to this application within twenty-one (21) days after publication of this notice in the **Federal Register.** An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-25211 Filed 8-14-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 35107]

Hawaii Common Fares Investigation; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearings in the above-entitled proceeding will be held on September 11, 1979, at 10:00 a.m. (local time) in the State Senate Chambers in the State Capitol Building, Honolulu, Hawaii 96813; on September 13, 1979 at 8:30 a.m. (local time) in the courtroom of the Federal Building, Waianuenue Ave., Hilo, Hawaii; on September 14, 1979, at 10:00 a.m. (local time) in the Kamehameha Room at the Kona Surf Hotel, Kona, Hawaii; and will resume on September 17, 1979 at 10:00 a.m. (local time) in the State Senate Chambers, State Capitol Building, Honolulu, Hawaii.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on June 1, 1979, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 8, 1979.

Nahum Litt,

Chief Administrative Law Judge.

[FR Doc. 79-25210 Filed 8-14-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-8-49]

Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 8th day of August, 1979.

In the matter of Exemption of U.S. and Foreign Air Carriers From Section 403(b)(1) of the Act to Permit Reduced-Rate Transportation to Certain Categories of Persons on Other Than a Space-Available Basis.

Section 403(b)(1) of the Federal Aviation Act of 1958, as amended, provides, inter alia, that "any air carrier or foreign carrier, under such terms and conditions as the Board may prescribe, may grant reduced-rate transportation on a space-available basis to any ministers of religion, any person who is sixty years of age or older and retired, any person who is sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person". We have concluded that the requirement that reduced-rate transportation for certain named categories of persons be on a space-available basis is anomalous in relation to other provisions of the Act (as recently amended) dealing with passenger fare matters, and is basically inconsistent with the overall tenor of the Airline Deregulation Act of 1978 (ADA).[1] The thrust of the rate provisions of the ADA is a reliance on the marketplace as the determinant of prices and any attendant restrictions, allowing each carrier to determine (within a very broad range) those prices and terms which best suit its particular circumstances. In addition, the Act's revised declaration of policy states that we shall consider, among other things, a variety of pricing and service options to be in the public interest.

It follows, we believe, that a decision on whether to make a particular fare available on an unrestricted reservation basis, or on a space-available basis, or something between, is one which is best left to individual carriers. As it is now, section 403(b)(1) precludes the carriers from experimenting with an option which provides a full or modified reservation for those categories of persons named in section 403(b)(1) traveling on reduced fares. Allowing reservations may in fact work to the overall benefit of all passengers, and certainly carriers have the incentive to administer the reservations so that regular fare-paying passengers are not preempted or otherwise burdened. Finally, we do not doubt that the inability to secure reservations more than one day in advance of travel is particularly troublesome to many senior citizens and may well inhibit travel at these fares.[2] For the foregoing reasons we find that it is consistent with the public interest to exempt carriers from section 403(b)(1) to the extent necessary to allow them to make reduced-rate travel available to ministers of religion, persons sixty years of age or older and retired, persons sixty-five years of age or older, and to any handicapped person

[1] The amendments to section 403(b)(1) regarding the carriage of the handicapped, senior citizens, etc. were made before the Airline Deregulation Act of 1978.

[2] We believe the same would be true with respect to travel by the handicapped.

and any attendant required by such handicapped person on other than a space-available basis. We are not suggesting by this order that carriers should allow advance reservations for the types of fares discussed here if they do not believe such a change is desirable, but if they do wish to change, this exemption will enable them to do so.

We will also exempt all carriers from section 404(b) of the Act to the extent that section would preclude the carriers from offering the categories of persons named above (*i.e.*, senior citizens, ministers, and the handicapped and their attendants) reduced-rate transportation on a reserved seat basis. We tentatively concluded in PSDR–58 our proposed rulemaking related to discrimination, prejudice, and preference notice of in pricing that permitting a very wide scope for the carriers' marketing judgments within zones of reasonableness and interfering only on a persuasive showing that interests worthy of protection are imperiled, is in the public interest.[3] While PSDR–58, if finalized, would support the legality of the fares at issue here, this exemption, based on the above public interest findings, should moot any claim of unreasonable discrimination.[4]

Accordingly, 1. We exempt all U.S. air carriers and all foreign air carriers from that part of sections 403(b)(1) and 404(b) of the Federal Aviation Act of 1958, as amended, to the extent that they limit the provision of reduced-rate transportation for any ministers of religion, any person who is sixty years of age or older and retired, any person who is sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person to a space-available basis; and

2. We shall serve this order on all U.S. certificated air carriers and all foreign air carriers holding permits under section 402 of the Act.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–25212 Filed 8–14–79; 8:45 am]

BILLING CODE 6320–01–M

[3] PSDR–58, 44 FR 21816, April 12, 1979.

[4] Should the Board reach a different conclusion with respect to status fares than that advanced in PSDR–58, we will reexamine the exemption authority granted here.

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Subcommittee on Export Administration of the President's Export Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council will be held on Monday, September 10, 1979, at 10:00 a.m., in Room B–841 of the Department of Commerce, Washington, D.C.

The Subcommittee on Export Administration was initially established on June 1, 1976. On January 6, 1977 and on April 5, 1979, the Assistant Secretary for Administration approved the recharter and extension, through December 31, 1980, of the Subcommittee, pursuant to the provisions of Executive Order 11753, as amended and extended by Executive Orders 11827, 11948, and 12110. Executive Order 12131 of May 4, 1979, which reconstituted the President's Export Council and revoked Executive Order 11753, provides that nothing in Executive Order 12131 shall be deemed to require new charters for subcommittees of the Council which were current immediately prior to the issuance of Executive Order 12131.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 et seq.) that deal with United States policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

The agenda for the meeting is as follows:

1. Organization of the Subcommittee.
2. Identification of future work of the Subcommittee.
3. Reexport controls and licensing policy.
4. Confidentiality of information and disclosure under the Export Administration Act of 1969, as amended.
5. Issues relating to COCOM.
6. Status of pending legislation to amend the Export Administration Act, as amended.

A limited number of seats at the meeting will be available to the public on a first-come basis. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Ms. Deborah Kappler, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–4293.

For further information, contact Ms. Kappler, either in writing or by telephone, at the address or number shown above.

Dated: August 10, 1979.

Robin B. Schwartzman,

Acting Director, Office of Export Administration, Bureau of Trade Regulation.

[FR Doc. 79–25227 Filed 8–14–79; 8:45 am]

BILLING CODE 3510–25–M

Maritime Administration

[Docket No. S–645]

Lykes Bros. Steamship Co., Inc.; Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc. (Lykes) has applied for written permission pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended, for a suitable Lykes' vessel to be determined later, operating outbound on its Line D (Trade Route No. 22) service, between U.S. Gulf ports and ports in Indonesia, Malaysia, and the Far East, to carry in the domestic intercoastal or coastwise trade five pieces of nuclear reactor components weighing 276.7 metric tons and measuring 625 cubic meters. This cargo is scheduled for shipment from New Orleans, Louisiana, to Portland, Oregon, between October 15, 1979, and November 15, 1979, with estimated arrival in Portland between November 15, 1979, and December 15, 1979.

The components mentioned above are the reactor vessel internal assemblies, which are thin wall vessels, each one fitted to a special shipping skid for protection and handling. Each package will be enclosed in plastic and the humidity is to be controlled during transit. Therefore, it is necessary that a representative of the shipper accompany the nuclear reactor components to maintain the level of humidity. Accordingly, the components must be placed in below deck stowage accessible for daily monitoring.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3099, Department of Commerce Building, Fourteenth and E Streets, NW., Washington D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning

the application must, by close of business on September 10, 1979, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

Dated: August 10, 1979.

By order of the Assistant Secretary for Maritime Affairs.

Robert J. Patton, Jr.,

Acting Secretary.

[FR Doc. 79-25228 Filed 8-14-79; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Endangered Species; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take an endangered species for scientific purposes as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant: a. Dr. William Dovel, Oceanic Society;

b. Magee Avenue, Stamford, Connecticut 06902.

2. Type of Permit: Scientific Purposes.

3. Names and Number of Animals: Shortnose sturgeon (Acipenser brevirostrum), 3,000.

4. Type of Activity: Shortnose sturgeon will be captured, measured, tagged and released in order to study their biology and life history.

5. Location of Activity: Hudson River, New York.

6. Permit of Activity: 2 years.

Written data and views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, DC 20235, on or before September 14, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, DC; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: August 7, 1979.

Dr. William Aron,

Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 79-25115 Filed 8-14-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Oceanside Beach Erosion Control Project, Oceanside, Calif.

AGENCY: US Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action*—Restore eroded beach using the recommended plan of a groin system and sandfill—consists of construction of six 800-foot-long rubble-mound groins, one 400-foot-long groin, one 200-foot-long groin, and the placement of about 0.5 million cubic yards of sand between the groins to form a protective beach.

2. *Reasonable Alternatives*—Alternatives to the recommended plan include restoration of the kelp beds offshore from Oceanside beach; a permanent bypass system; removal of the harbor; sandfills (continuation of beach nourishment operations); a submerged offshore breakwater; rock revetment; concrete seawalls; and "no action". These alternatives will be described in more detail in the Draft Environmental Statement.

3. *Description of Corps Scoping Process*—

a. The Corps has established and maintained coordination with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the California Department of Fish and Game, the Regional Water Quality Control Board (San Diego Region), and the Environmental Protection Agency, and has coordinated with the California Coastal Zone Conservation Commission (San Diego Region), the Oceanside Coastal Project Committee, the City of Oceanside, the U.S. Marine Corps, and Marine Biological Consultants, Inc. Listed below are the most important meetings held with other Federal agencies and local entities during the study.

November 17, 1971 and April 18, 1972—A meeting with State, County, City and local groups.

December 29, 1972—A meeting with U.S. Marines Corps.

July 24, 1978—A meeting at Waterways Experiment Station (WES), Vicksburg, Mississippi, with Oceanside Officials.

November 14, 1978—A meeting in Oceanside with engineers from WES.

In addition, formal and informal meetings have been held with various citizen groups. The first public meeting was held on 27 June 1968 at Oceanside to obtain local interests' desires. Local interests requested that the beach be restored to its historic limits and that the cobblestones be removed from the beach. In April 1977, a second public meeting was held in Oceanside to obtain views on alternatives plans. The city of Oceanside expressed a desire to see model study results.

b. The significant environmental concerns are: (a) displacement of fish and destruction of benthic organisms within the proposed construction site as well as loss of marine habitat and reduction in the productivity of the area, (b) decrease in water quality, (c) reduction of swimming activities adjacent to the groin structures, (d) increase in noise levels, degradation in air quality, and increased demands on transportation systems as a result of

increased recreational potential of the restored beach, (e) temporary construction-related decrease in water and air quality and loss of recreational uses.

c. Assignments for input by lead and cooperating agencies does not apply for this DEIS.

4. Estimated date when DEIS will be made available to the public—January 1980.

ADDRESS: Questions about the proposed action and revised draft environmental impact statement can be answered by Mr. Claude Wong, Coastal Resources Branch, US Army Corps of Engineers, P.O. Box 2711, Los Angeles, CA 90053.

Gwynn A. Teague,

Colonel, CE District Engineer.

[FR Doc. 79-25160 Filed 8-14-79; 8:45 am]

BILLING CODE 3710-KF-M

Department of the Army

Fort Leavenworth, Kans. Ongoing Missions; Filing of Environmental Impact Statement

The Army, on August 10, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the on-going missions at Fort Leavenworth, Kansas. The alternatives of maintaining, discontinuing, or changing missions at Fort Leavenworth are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, Fort Leavenworth, ATTN: Directorate of Engineering and Housing, Building No. 85, Fort Leavenworth, KS 66027, telephone: (913) 684-5646.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694-3434.

Bruce A. Hildebrand,

Deputy for Environment, Safety, and Occupational Health, OASA (IL&FM).

[FR Doc. 79-25192 Filed 8-14-79; 8:45 am]

BILLING CODE 3710-08-M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 22, 1979, commencing at 2:00 p.m. The hearing will be a part of the Commission's regular August business meeting which is open to the public. Both the hearing and the meeting will be held at the Commission's offices, 25 State Police Drive, West Trenton, N.J. The subject of the hearing will be application for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project appovals pursuant to Section 3.8 of the Compact.

1. *The Basile Corporation (D-72-185 CP-Revised).* A project to expand the service area of a previously approved project. The 70,000-gallon-per-day treatment plant was constructed to serve only an apartment complex in Painter's Crossing, Birmingham Township, Delaware County, Pa. The actual wastewater flow is much less than anticipated and the applicant is now proposing to serve additional areas of business and light industry. No change in the treatment plant design or capacity is proposed.

2. *General American Transportation Corporation (GATX) Dock and Terminal (D-73-161).* The applicant proposes to construct a tanker and barge loading and unloading facility and a petroleum product tank farm in West Deptford Township, Gloucester County, N.J. The dock will be about 900 feet long, about 1,000 feet channelward from the mean high water line and 400 feet shoreward of the existing Mantua Anchorage. The project will require dredging of about 825,000 cubic yards of bottom silt to a depth of 40 feet.

3. *West Chestnut Realty Corp. (D-78-87).* A waste treatment project at the Hershey's Mill real estate development in East Goshen Township, Chester County, Pa. Treatment plant will provide for removal of 85% of BOD from a wastewater flow of approximately 80,000 gallons per day. Treated effluent will be disposed of by spraying irrigation.

4. *Inversand Company (D-79-1).* An industrial waste treatment project at the Company's glauconite mining and process facility in Mantua Township, Gloucester County, N.J. Treatment facilities are designed to bring the discharge of suspended solids and manganese down to applicable limits for a wastewater design flow of about 910,000 gallons per day. Treated effluent will continue to discharge to an unnamed tributary of Mantua Creek.

5. *Robert I. Hallock (D-79-20).* A subsurface water supply project at the subject farm in Plumstead Township, Ocean County, N.J. The applicant requests approval of a maximum withdrawal of 6 millions gallons per month, which will be used for irrigation of corps.

5. *Reading Alloys (D-79-44).* The applicant requests approval to continue discharging cooling water through an existing pond. Waste streams with high concentration of non-ferrous metals from production processes and scrubbers have been segregated and only non-contact cooling water will be discharged. The project is located in South Heidelberg Township, Berks County, Pa.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

Dawes Thompson,

Acting Secretary.

August 8, 1979.

[FR Doc. 79-25162 Filed 8-14-79; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) notice is hereby provided of the following meeting:

I. A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on August 21 and 22, 1979, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 a.m. on August 21. The agenda is as follows:

1. Status of Standing Group on the Oil Market (SOM) and IWP activities and arrangements for future meetings.

2. Registration of Oil Market Transactions.

II. A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on August 29, 1979, at the offices of Her Majesty's Department of Energy at London, England, beginning at 9:30 a.m. The Agenda for the meeting is under the control of the SOM *ad hoc* group. It is expected that the IWP representatives will be asked to discuss the following subject:

Registration of Oil Market Transactions.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meeting will not be open to the public. As permitted by § 209.32 of

DOE regulations the usual 7-day notice period has been shortened due to IEP requirements. The shorter notice in this case is required because the request by the International Energy Agency (IEA) that the IWP hold a meeting prior to the August 29 SOM meeting was made only a few days ago.

Issued in Washington, D.C., August 10, 1979.

Robert C. Goodwin, Jr.,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 79-25362 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Northeast Petroleum Industries, Inc.; Multiple Allocation Fraction

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Issuance of Order.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that on July 27, 1979, a Decision and Order was issued pursuant to the provisions of 10 CFR 205.90 *et seq.*, and 211.10(b) authorizing Northeast Petroleum Industries, Inc., to use one allocation fraction for all its motor gasoline customers in its marketing operations in the New England area and another allocation fraction for bulk purchaser customers served from the Gulf Coast area.

On July 30, 1979, a modification was issued to the Decision and Order changing its effective date to June 1, 1979.

Although we believe the Order issued on July 27, 1979 was clear, Northeast Petroleum Industries, Inc., has questioned ERA's intent regarding its New England product. Thus, we wish to emphasize that the allocation regulations require a supplier to apply a uniform allocation fraction to all of its customers subject to an allocation fraction unless exception relief is granted or separate allocation fractions are permitted. To the extent that state laws or private contractual relationships conflict with these Federal regulations, the Federal regulations will prevail.

While the Decision and Order requires service of a copy of this Order by Northeast Petroleum Industries, Inc., on its customers, we have decided instead to waive that requirement and publish the Order.

Accordingly, a copy of the Decision and Order, with proprietary information deleted, and a copy of the modification is attached as an appendix.

For further information regarding this Order, please contact:

Alan T. Lockard, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M Street, N.W.—Room 6222, Washington, D.C. 20461, (202)254-7422.

Joel M. Yudson, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W.—Room 6A-127, Washington, D.C. 20585, (202)252-6744.

Issued in Washington, D.C. on the 8th day of August 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Department of Energy,
Washington, D.C.

Economic Regulatory Administration Decision and Order

To: Northeast Petroleum Industries, Inc., *295 Eastern Avenue, Chelsea, Mass.*

Subject: Application for Permission To Use Multiple Allocation Fractions Dated May 22, 1979.

I. Procedural Statement

By application dated May 22, 1979, Northeast Petroleum Industries, Inc. (Northeast), filed for permission to use multiple allocation fractions (MAF) for motor gasoline pursuant to Section 211.10(b) of the Mandatory Petroleum Allocation Regulations of the Department of Energy (DOE). Section 211.10(b) states in part:

Suppliers with two or more distribution subsystems or regions independent of one another may apply to the DOE National Office, in accordance with Subpart G of Part 205 of this chapter, for permission to use MAF whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the program.

In its application, Northeast requests permission to use MAF for the sale of motor gasoline as follows: (1) one allocation fraction for its wholesale unbranded rack system in New England; (2) three separate allocation fractions for its branded distributors and retail stations in New England; and (3) one allocation fraction for its bulk purchasers outside of New England.

II. Background

Northeast has marketed in New England since 1964. —— percent of its unbranded supply comes from suppliers ———— by tanker and barge into deepwater terminals. Northeast's branded system purchases gasoline at the rack from ————, and sells through branded stations and to consumer accounts.

In 1978, the unbranded division accounted for approximately ———— gallons or —— percent of company-wide purchases, while the branded division accounted for approximately ———— gallons or —— percent of company-wide purchases.

In 1975, Northeast established a separate bulk sales division in Houston, Texas, engaging solely in bulk sales of refined petroleum products sold primarily on the Gulf Coast (and to some extent on the East and West Coasts).[1] The bulk sales division purchased (and continues to purchase) product FOB refinery or terminal in Texas and Louisiana by pipeline, tanker or barge. In 1978, the bulk sales division accounted for approximately ———— gallons or approximately —— percent of company-wide purchases.

The three systems are reported to be independent operating entities established as separate divisions of the company; each is under separate management. Two divisions are headquartered in Massachusetts, the third in Houston, Texas.

Because of tightened supplies, Northeast reports that it faces serious problems with DOE's single allocation fraction requirement. At the time of its filing, Northeast stated that volumes of product available in New England had become more limited than volumes available to the bulk sales division in Texas.

Under such conditions, if Northeast were required to maintain a single allocation fraction, it would have to divert product from the Gulf Coast area to New England. The then current contract price in New England was significantly less than the price of spot gasoline in the Gulf Coast area. In addition, Northeast stated that such a diversion of product could only be done by barge or tanker at a cost of several cents per gallon, assuming shipping is available.

Exchanges are not readily available, according to Northeast, because New England is not on any pipeline, and exchange partners normally do not want to engage in transaction into higher freight cost areas.

Beginning in June, however, Northeast projected that the allocation fraction in the Texas Bulk Sales Division area would be well below 1.0, while in New England it would be much closer to 1.0. If Northeast were required to divert product from New England to the Gulf Coast, there would be difficulties similar to a diversion from the Gulf Coast area to New England. In addition, according to Northeast, such a diversion would have the undesirable effect of diverting product from small, independent marketers and customers to large wholesale and refiner-purchasers in the Gulf Coast area.

In New England, Northeast operates, ———— branded stations, all but ———— of which are dealer operated. It receives product for the branded stations from ———— and ————. Typically, each of the retail outlets operates under one of these brands. Since May 1, 1979, Northeast reported that each of these suppliers had posted an allocation fraction less than 1.0— ————. Northeast asserts that because of contractual relationships with these suppliers and state law, product from one supplier cannot be moved to a branded retail outlet of another supplier.

Northeast cites the Economic Regulatory Administration's (ERA) unreported decision

[1] It should be noted that this activity took place subsequent to the then effective 1972 base period.

and order in the *Getty Oil Company-Skelly Oil Company* case (*Getty-Skelly* case) issued on April 8, 1977, as a precedent for the instant application.[2]

Northeast reports that product sold in New England is consumed entirely in New England, whereas bulk sales division sales are consumed in all other regions of the country. It also reports that transfers between the two systems have occurred only on occasion and are not a part of normal operations—primarily due to economic and logistical constraints.

In addition, Northeast has expressed an opinion that its filing for MAF under the allocation regulations is consistent with DOE's pricing regulations, since Northeast computes prices separately for each of the distribution systems in accordance with 10 CFR § 212.92.

III. Legal Authority

Northeast's application is being processed in accordance with the provisions of 10 CFR § 205.90 *et seq.* and § 211.10(b).

IV. Legal Analysis and Findings

On February 22, 1979, the ERA activated certain portions of the Standby Petroleum Product Allocation Regulations in order to update the base period for motor gasoline allocation from the corresponding month of 1972 to the corresponding month of the period July 1, 1977, to June 30, 1978, and implemented the updated base period for an initial period of March, April and May 1979. Subsequently, on May 1, 1979, the ERA issued an interim final rule (the Interim Rule) which superseded the July 1, 1977, to June 30, 1978, base period, 44 Fed. Reg. 26712 (May 4, 1979). Under the Interim Rule, the base period for motor gasoline allocation is designated as the period November 1977 through October 1978. The updated base period was permanently established by the final rule, 44 Fed. Reg. 42549 (July 19, 1979).

The effect of the updated base period is to make Northeast responsible for the first time to continue to supply its wholesale class of customers (added since the earlier 1972 base period), in addition to a retail class of customers. This obligation (and the serious, practical obstacles encountered in meeting such obligation), has caused Northeast to request MAF.

As indicated above, pursuant to 10 CFR § 211.10(b), suppliers with two or more distribution subsystems or regions independent of one another may apply to the ERA in accordance with 10 CFR § 205.90, *et seq.* for permission to use MAF whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the Mandatory Petroleum Allocation Regulations.

Suppliers of an allocated product are generally required to maintain a single allocation fraction for purchasers of that product. This policy is designed to ensure to the maximum extent practicable, the equitable distribution of allocated products throughout all areas of the U.S. The policy of maintaining a single allocation fraction will be outweighed only to the extent that there is satisfactory demonstration that it is impracticable and burdensome to do so in particular situations.

Generally, there are six factors which the ERA considers in determining whether to approve requests for the use of MAF.[3] Those considerations are as follows:

(1) The relative location of the marketing areas to be included in computing each separate allocation fraction;

(2) The sources of supply for each such area;

The method used in transporting the product to each area;

(4) The availability of transporting facilities and cost of transporting product, either

(a) between such areas, or

(b) from the source of supply to one area as opposed to another;

(5) The destination of product within such an area; and

(6) The degree to which transfers or exchanges of like product with other producers has been in the past or could reasonably be arranged.

In considering the Northeast application, the ERA finds that:

(1) Northeast engages in the sale of motor gasoline by two separate and distinct methods and distribution systems.

(a) In the first instance, Northeast maintains terminals and makes sales to small independent purchaser-resellers and at retail at unbranded stations operated by a Northeast subsidiary in the New England area. Northeast's branded New England distribution system purchases motor gasoline at the rack and sells this product through branded stations and to consumer accounts in the area. Approximately —— percent of Northeast's gasoline sales are in this category.

(b) In the second instance, Northeast makes bulk purchases of gasoline in the Gulf Coast area for sale in bulk lots to large wholesalers and refiners. Approximately —— percent of Northeast's gasoline sales are in this category.

(2) Northeast's retail system in New England and its bulk system on the Gulf Coast are not interconnected or otherwise joined, physically, geographically, or by any other method (such as exchange agreements) normally associated with unitized distribution systems.

(3) In the New England area, Northeast purchases and receives gasoline from ———— refiners/suppliers into its terminals by tanker or barge. The gasoline is then distributed for sale in unbranded retail outlets in the adjoining area. Northeast also purchases gasoline at the rack and sells this product through branded retail outlets and consumer accounts in the area.

(4) In the Gulf Coast area, Northeast purchases gasoline in bulk lots (often on a "spot" basis) for resale in bulk lots to refiners and large wholesalers in many areas of the country.

(5) Transfers or exchanges of gasoline between the New England and Gulf Coast areas has not been a part of Northeast's normal operating procedure, and, indeed, would be difficult to arrange consistently on a continuing basis because of the transportation modes between the two areas and expensive transportation cost differentials.

(6) Gasoline supplied in the New England area is normally received from ———— or ————. The bulk product is purchased in the Gulf Coast area from refineries in Louisiana and Texas.

(7) Inasmuch as Northeast's two distribution systems receive product from separate sources and serve separate classes of customers in different areas, no adverse impact should occur by permitting Northeast to maintain two allocation fractions for its separate distribution systems. On the other hand, undue dislocation of supplies and financial hardship could result from increased transportation costs if Northeast is required to maintain a single allocation fraction for the two areas.

(8) In New England, however, Northeast's motor gasoline retail sales distribution is localized in one general area and essentially consists of the same type marketing operations throughout the system. Although Northeast bases its need for separate MAF in New England on the fact that it deals in both branded and nonbranded products, this, in itself, is not reason for granting the request and, indeed, we do not find Northeast's allegation persuasive that contractual relationships and laws governing the sale of branded motor gasoline prohibit the movement of product from one supplier to a branded retail outlet of another supplier. Furthermore, discriminatory practices could occur if separate MAF for Northeast were permitted in New England. Therefore, we find that denial of the request for separate MAF in New England is consistent with motor gasoline allocation policy enunciated in the Mandatory Petroleum Allocation Regulations.

(9) Accordingly, under 10 CFR § 211.10(b), the ERA concludes that it is impracticable and burdensome, and inconsistent with the objectives of 10 CFR Part 211 for Northeast to maintain a single allocation fraction. Therefore, the ERA will grant partial relief by allowing Northeast one allocation fraction for all its customers in the New England area and another allocation fraction for its customers served from the Gulf Coast.

V. Order

This order is made pursuant to the provisions of 10 CFR § 205.90, *et seq.* and § 211.10(b):

[2] The application was filed in the *Getty-Skelly* case in order to continue to use MAF for the two firms, since it was contemplated that Skelly Oil Company would merge with and into the Getty Oil Company. The ERA approved continued use of MAF because it found that: (1) Getty and Skelly had separate refineries producing motor gasoline which is marketed in geographically isolated regions of the U.S.; (2) there was no interconnection between the refineries; (3) their operations were not interchangeable or interrelated; and (4) they had different sources of crude oil supplies. We do not believe that the *Getty-Skelly* case is relevant to the disposition of the instant application for the reasons noted herein, however, we find that Northeast meets the criteria for granting MAF in the circumstances presented in the Northeast application.

[3] See, *Shell Oil Company, Houston, Texas*, Case No. Fea-0620, 3 FEA Para. 80,557 (January 22, 1976).

A. Effective July 1, 1979, Northeast is hereby authorized to use MAF: one allocation fraction for all its customers in its retail marketing operations in the New England area and another allocation fraction for bulk purchaser customers served from the Gulf Coast area.

B. The two allocation fractions which Northeast is authorized to use in Paragraph A of this order shall be used within the two subsystems, as described herein.

C. Except to the extent authorized herein, all other requests for relief contained in Northeast's application dated May 22, 1979, are hereby denied.

D. Northeast is hereby ordered to serve immediately a copy of this decision and order upon all its base-period customers in its retail marketing operations in the New England area and in its bulk purchaser operations served from the Gulf Coast area.

E. In accordance with the provisions of 10 CFR, Part 205, an aggrieved party may filed an appeal from this decision and order with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. The provisions of 10 CFR, Part 205, Subpart H, set forth the procedures and criteria which govern the filing and determination of any such appeal.

F. This decision and order is based upon the presumed validity of the statements and documentary material received from the applicant and other parties. It may be revoked or modified at any time if it is determined that the factual basis underlying the order is incorrect or upon the promulgation of new rules which supersede, in whole or part, the rules under which the order was issued.

G. Communications, other than appeals, regarding this directive, should be referred to Alan T. Lockard, Chief, General Fuels Branch, Petroleum Products Division, Office of Petroleum Operations, Economic Regulatory Administration 2000 M Street, N.W., Washington, D.C. 20461, telephone number (202) 254-7422.

Doris J. Dewton,

Acting Assitant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Department of Energy,
Washington, D.C.

Economic Regulatory Administration Decision and Order

To: Northeast Petroleum Industries, Inc., *295 Eastern Avenue, Chelsea, Mass.*
Subject: Application for Permission to Use Multiple Allocation Fractions Dated May 22, 1979.

The Economic Regulatory Administration's Decision and Order, subject as above, issued July 27, 1979, erroneously indicated the effective date in paragraph V. (A) to be July 1, 1979. The effective date should read June 1, 1979.

Doris J. Dewton,

Acting Assistant Administrator Economic Regulatory Administration.

July 30, 1979.

[FR Doc. 79-25144 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

Palmco Management Co.; Issuance of Decision and Order

On June 21, 1979, we issued a Proposed Decision and Order to Palmco Management Company that would permit, pursuant to the provisions of 10 CFR 212.78, market prices for the incremental crude oil from the Hilbig Unit No. 1 enhanced recovery project in the Hilbig Field of Bastrop County, Texas (44 FR 44, June 27, 1979). No comments or objections have been received with respect to that Proposed Decision and Order. Accordingly, on August 7, 1979, we issued a Decision and Order that permits market prices for incremental crude oil from the Hilbig Unit No. 1 Project.

A copy of the Decision and Order is available in the Public Docket Room, Room B-120, 2000 M Street, NW., Washington, DC., between 1:00 p.m. and 5:00 p.m., Monday through Friday and in the Department of Energy Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, DC, August 8, 1979.

Doris J. Dewton,

Assistant Administrator, Economic Regulatory Administration.

[FR Doc. 79-25143 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-79-4]

Palmco Management Co. on Behalf of Patrick Petroleum Co.; Application for Price Incentives; Tertiary Enhanced Recovery Project, Hilbig Oil Unit No. 1

Background

On June 21, 1979, the Economic Regulatory Administration issued, pursuant to the provisions of 10 CFR 212.78, a Proposed Decision and Order to Palmco Management Company (Palmco) on behalf of the Patrick Petroleum Company that would permit market prices for incremental crude oil production from the Hilbig Oil Unit No. 1 of the Hilbig Field in Bastrop County, Texas. We took that action on the basis of an application for incentive pricing under the Tertiary Enhanced Recovery Program of 10 CFR 212.78 that was completed on March 6, 1979 with the submission of additional material requested by ERA. We have received no comments or objections with respect to that Proposed Decision and Order. Accordingly, we are issuing to Palmco a Decision and Order substantially as proposed.

The Hilbig field has been in production since 1933, contains about 300 productive acres and has produced over 6,000,000 barrels of oil from an estimated 11,500,000 barrels originally in place. Oil recovery at the Hilbig Unit involves gas injection into a gas cap, water injection into an underlying aquifer and tertiary enhanced oil recovery operations consisting of alternate hot oil injection and production from the producing wells. The time interval between hot oil injection cycles is about 10 to 11 days, down from 12 to 14 days in past years.

The working interest in the Hilbig Oil Unit No. 1 is owned 100 percent by Patrick Petroleum Company. Patrick Petroleum Company's revenue interest is 0.875. The Unit is operated by the Palmco Management Company of Tulsa, Oklahoma.

Palmco states that the project is uneconomic in that it earned only $1,068 monthly after taxes during 1978. A summary of prior year financial history is provided in Table 1 attached to this Decision and Order. Palmco has requested that the pricing incentives of Section 212.78 be granted for the incremental crude oil production from the Hilbig Oil Unit No. 1 Project since the proper action for a prudent operator to take under controlled crude oil prices is to abandon oil production operations, to produce and sell the gas in the gas cap, and then to abandon the field.

Findings and Analysis

A. Section 212.78 provides that the "incremental crude oil" from a "qualified tertiary enhanced recovery project" may be sold at prices not subject to the ceiling price limitations of Subpart D of Part 212. In order for crude oil production from a particular project to be priced in accordance with the price rule of Section 212.78, ERA must certify the project as a qualified tertiary enhanced recovery project. Prior to granting this certification, Section 212.78 (d) requires ERA to determine that (1) the project involves one of the enhanced oil recovery techniques listed in the definition of a qualified tertiary enhanced recovery project set forth in Section 212.78(c) and (2) the project would not be economic at the otherwise applicable ceiling prices.

With respect to a project that was initiated prior to receipt of the required certification, Section 212.78(b)(2) provides the additional requirement that certification will be granted only if (1) the producer affirms that it intends to discontinue the project (or the particular high-cost phase of the project) because continuation would be uneconomic at the otherwise applicable ceiling prices and (2) there has been a material change of circumstances since the initiation of the project. If ERA grants certification, it must also determine the amount of incremental and non-incremental crude oil (as defined in Section 212.78(c)) that will result from the project.

B. Palmco has supplied information describing the current cyclic injection of hot oil in periods of 10 to 11 days on the Hilbig Unit. 10 CFR 212.78(c)(10) permits ERA to determine that specific variations of the tertiary enhanced recovery techniques specifically defined should be deemed bona fide techniques. Cyclic thermal treatment of oil wells is a recognized tertiary enhanced recovery method under 10 CFR 212.78(c) where steam is used as the heat transfer medium. In the Hilbig Unit the same thermal procedure is being used, except that oil is employed as the heat transfer medium. In response to a request by ERA, the Oil and GAs Division of the Texas Railroad Commission has stated that, in their opinion, the type of operation being conducted at the Hilbig Unit will allow otherwise unrecoverable oil to be produced. Accordingly, we have determined that the variation being employed at the Hilbig Unit should be deemed a qualified tertiary enhanced recovery technique and thus, that the Hilbig Unit No. 1 Project meets the first requirement for certification as a qualified tertiary enhanced recovery project under Section 212.78(d).

C. Palmco has submitted data which show that, after five years of declining net (after tax) revenue to working owners, a purely nominal return of only $681 monthly for the year 1979 is obtained, after operating costs and before interest on the property loan and depreciation (capital replacement). This may be compared with $11,231 per month five years earlier. Projections beyond 1979 show operating losses in 1980 and growing thereafter. On the basis of the financial information supplied by Palmco, we have determined that the Hilbig Oil Unit No. 1 Project meets the second requirement for certification as a qualified tertiary enhanced recovery project under Section 212.78(d).

D. Since a tertiary project has already been initiated with respect to the Hilbig Unit, the requirements of Section 212.78(b)(2) must be met prior to ERA's granting certification. We have determined that these requirements have been met.

In its submission Palmco affirmed that it would terminate the tertiary project if it is not permitted market price for the incremental tertiary oil since, in 1978, the monthly revenue before taxes was $1,068, while the monthly revenue before taxes would approximate $142,920 if oil production operations were abandoned and gas production and sales commenced from the gas cap.

E. Palmco has presented information on earnings from the Hilbig Unit that shows that after tax revenue, has decreased over 90 percent since 1974. The annual rate of return over operating costs alone, without allowance for interest and capital depreciation, declined to less than 5% in 1978. This history constitutes a material change in circumstances satisfying the second requirement of 10 CFR 212.78(b)(2).

F. Section 212.78(d) requires the ERA to determine at the time it certifies a project as a qualified tertiary enhanced recovery project, the amount of incremental and non-incremental crude oil (as defined in Section 212.78 (c)) that will result from that project. In general, the incremental crude oil resulting from a project initiated prior to certification by ERA is the amount of crude oil production above that which would have occurred had the qualified tertiary enhanced recovery project been discontinued. Inasmuch as oil production from the Hilbig Unit requires cyclic hot oil injection into the reservoir on a 10 to 11 day schedule the non-incremental tertiary oil production is that which would occur following the cessation of hot oil injection. Without hot oil injection production would fall to an effective zero rate very quickly. Based on data submitted by Palmco the average oil production following hot oil injection treatements is determined to be 3,630 barrels in a 12 day period, and declining in that period to an abandonment producing rate of 100 barrels of oil per day.

G. Inasmuch as Palmco completed its application on March 6, 1979 and has affirmed that, in the absence of the requested price incentives, the oil production would be abandoned, incremental crude oil production is deemed to commence on April 1, 1979.

H. A copy of this Decision and Order is available in the Public Docket Room, Room B–120, 2000 M Street, N.W., Washington, D.C., between 1:00 p.m. and 5:00 p.m., Monday through Friday, and in the Department of Energy Reading Room, Room GA–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

It is therefore, ordered that

1. The Hilbig Unit No. 1 owned by the Patrick Petroleum Company and operated by the Palmco Management Company, located in the Hilbig Field, Bastrop County, Texas is declared to be a qualified Tertiary Enhanced Recovery Project within the meaning of 10 CFR 212.78.

2. Crude oil production from the Hilbig Unit No. 1 Project in excess of the "Non-Incremental Crude Oil Production" is not subject to the ceiling price limitations of 10 CFR, Part 212, Subpart D. The "Non-Incremental Crude Oil Production" from the Hilbig Unit is determined to be 3630 barrels of oil for the month of April, 1979 and zero thereafter.

3. This certificate is based on the presumed validity of statements, assertions, and documentary materials submitted by Palmco. It is based on Palmco's implicit assurance that all actual and projected costs reported by the firm have been determined on an arm's length basis and represent fair and reasonable market price valuations for the expenditures involved, that all actual and projected production figures have been derived from reliable records or made on the basis of generally acceptable engineering practice, and that every effort has been made to insure that all cost, revenue and production estimates are reasonably accurate.

4. This order will continue in effect from April 1, 1979 so long as Palmco continues the application of hot oil injection on the Hilbig Unit No. 1 Project, provided that it may be revoked or modified at any time upon a determination that the factual basis underlying the application is materially incorrect.

Issued in Washington, D.C. on August 8, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration.

Table No. 1.—*Pipeline Runs, Operating Expenses, and Net Revenue Years 1972 Through 1978 (Monthly Average)*

	1974	1975	1976	1977	1978
Income (⅞ Working Interest)	$36,652	$32,861	$28,716	$24,561	$25,809
*Field Expenses	6,594	10,727	9,911	9,458	10,234
Overhead	760	820	880	950	1,020
Engineering and Technical Assistance	530	580	650	720	800
Fuel Cost:					
Compressors	5,230	6,160	7,250	8,530	8,530
Heater Treaters	500	590	700	820	820
Flaring	1,440	1,700	2,000	2,350	2,350
Total Operating Expenses	15,054	20,577	21,391	22,828	23,754
Net Revenue Before Taxes	21,598	12,284	7,325	1,733	2,055
Net Revenue After Taxes	11,231	6,388	3,809	901	1,068

*Field expenses include superintendent, gauger, contract labor, telephone, well service, taxes, pump repair, electricity, compressor repair, chemical treating and equipment rentals.

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[Docket No. ER79-339]

Arkansas Power & Light Co.; Order Accepting for Filing and Suspending Proposed Rate Changes, Granting Intervention, and Establishing Hearing and Price Squeeze Procedures

Issued: August 6, 1979.

On April 30, 1979, as completed on June 7, 1979,[1] Arkansas Power & Light Company (AP&L) tendered for filing proposed rate increases to seven municipal customers (proposed rate schedule WM2), two cooperative customers (proposed rate schedule WC2), and the City of Jonesboro, Arkansas (proposed amendment to Appendix B of a January 23, 1973 contract).[2] Based on a test period consisting of the twelve months ending December 31, 1979, the proposed rates would result in an increase of approximately $6,674,000 (15.02%). This increase represents additional revenues of $5,618,000 (13.97%) from the municipals, $424,000 (22.03%) from the cooperatives, and $632,000 (27.59%) from the City of Jonesboro.

On May 17, 1979, the Arkansas Public Service Commission filed a timely notice of intervention.[3] On May 25, 1979, eight of AP&L's wholesale customers (Customers) [4] submitted a petition to intervene, motion for a five month suspension, and motion to reject the filing. In an answer filed on June 11, 1979, AP&L acknowledges Customers' interests as intervenors in this proceeding, but disputes the asserted basis for rejection or maximum suspension.

In support of their request for a five month suspension, Customers' initial pleading discussed the potential effect of AP&L's fuel adjustment clause. AP&L's submittal incorporates a single-base fuel clause which the company has proposed in accordance with Section 35.14 of the Commission's Regulations. In addition, at the request of Customers, AP&L offered an alternative multi-base clause (and associated base rates) allegedly comparable to a retail fuel adjustment clause previously implemented by AP&L at the direction of the Arkansas Public Service Commission. Under the alternative fuel clause, during operation of AP&L's nuclear facilities, an amount would be credited to a reserve fund to cover the estimated cost of replacement power when a nuclear unit is down for refueling; this reserve would be debited when additional purchased power expenses are incurred. According to the parties, AP&L's retail fuel clause also would preclude AP&L from automatically passing on to its ratepayers increased fuel costs that may be incurred when its nuclear facilities operate at less than a 65% capacity factor.

Customers originally urged that AP&L be directed to implement its alternative multi-base fuel clause in this proceeding.[5] According to Customers, the terms of a 1976 settlement agreement between themselves and AP&L [6] require that AP&L develop its wholesale rates in a manner that is consistent with the company's retail rates. Customers asserted that inclusion of a single-base fuel clause in the wholesale rates would potentially subject Customers to a serious price squeeze, since the company's large industrial retail customers would allegedly pay proportionately lower charges under the multi-base retail clause in the event of a nuclear outage.[7] Customers concluded that the potential anticompetitive effect of different retail and wholesale fuel clauses justified a maximum suspension of AP&L's proposed rates.

In its June 11, 1979 answer, AP&L denied that its single-base fuel clause formula violates the settlement agreement in Docket No. ER76-110, and asserted that the clause is fully consistent with this Commission's Regulations. Although AP&L challenged Customers' failure to raise this issue in prior proceedings, the company indicated that it would not object to our substitution of its alternative fuel clause (and revised energy charges appended to AP&L's answer.) [8]

In a June 14, 1979 reply to AP&L's answer, Customers reiterated their request that the Commission authorize AP&L to utilize its alternative dual-base fuel clause in this proceeding. However, on July 24, 1979, Customers withdrew this request. In an addendum to their June 14 reply, Customers now urge the Commission to implement yet another fuel clause which was ordered into effect by the Arkansas Commission in an interim order issued July 3, 1979.[9] Customers apparently desire this Commission to direct AP&L to substitute whatever fuel clause the company is currently utilizing in its retail rates. To date, AP&L has not responded to Customers' new proposal.

We appreciate Customers' concerns regarding the potential disparity between wholesale and retail fuel adjustment clauses. However, at the present time, we are unable to accommodate their requests. The alternative multi-base fuel clause originally submitted by AP&L as well as the state-imposed fuel clause represent substantial departures from the

[1] By letter dated May 18, 1979, AP&L was notified that its original submittal was deficient.

[2] See Attachment A for rate schedule designations.

[3] Public notice of AP&L's filing was issued on May 3, 1979, with comments due on or before May 25, 1979.

[4] The Conway Corporation, Benton Municipal Light & Water Works, Hope Water & Light Commission, City of North Little Rocke, City of Osceola, City of Prescott, City of West Memphis, Arkansas, and Farmer's Electric Cooperative Corporation.

[5] As discussed *infra*, the Arkansas commission has recently implemented a fuel clause different from that submitted by AP&L as as an alternative in this case. As a result, Customers have modified their original request.

[6] *See Arkansas Power & Light Company*, Docket No. ER76-110, order approving settlement, issued November 15, 1976.

[7] Customers alleged that the price squeeze issue was particularly significant in light of the fact that AP&L's ANO No. 1 nuclear plant was out of service.

[8] By letter dated June 14, 1979, AP&L notified the Commission of certain errors in the revised charges attached to its answer.

[9] We note that Customers have stated no reason for waiting some 20 days before this Commission of the actions of the state commission.

requirements of Section 35.14 of the Regulations, and it is not clear that operation of either of these fuel clauses, even on an interim basis, would be in the public interest.[10] Insufficient information has been provided for the Commission to make an informed evaluation of the manner in which the alternative clauses would operate.[11] As to the state-imposed fuel clause, AP&L has neither stated its willingness to substitute this formula for its originally proposed clause, nor specified whether concomitant revisions to its proposed base energy rates would be requested. Moreover, the Arkansas Commission has expressly stated that its order directing AP&L to revise its retail fuel clause is not a final order.[12]

We shall accept for filing and suspend AP&L's originally proposed fuel adjustment clause. Under the circumstances we are particularly reluctant to waive the requirements of Section 35.14 of our Regulations, because insufficient information has been provided for evaluation of the 65% nuclear plant factor limitation, the accumulation of the reserve account, and calculation of interest on funds accumulated, as well as the type of cost support generally required by Sections 35.13 and 35.14 of our Regulations. However, this is an innovative suggestion with potential merit and we would consider waiver of our Regulations to allow implementation of a substitute fuel clause if the Company made such a request in a pleading accompanied by adequate documentation.

In addition to the foregoing, Customers have proposed three grounds for rejecting AP&L's filing in whole or in part. The first of these arguments relates to AP&L's inclusion of a late payment provision in its wholesale rate schedules. Customers challenge this provision as a violation of that portion of their settlement agreement which prohibits unilateral changes in rate design, except upon two years' prior notice. Customers also contend that AP&L has failed to provide sufficient explanation of its Period II estimates as required by section 35.13(b)(4)(iii) of the Regulations. Finally, Customers challenge AP&L's Period II cost of service insofar as it includes the full annualized cost of AP&L's ANO No. 2 nuclear plant. Customers point to the fact that AP&L's filed testimony acknowledged that this unit would not become operational at least until midway into the 1979 test period.

AP&L addresses Customers' allegations in its June 11 answer. Concerning the delayed in-service date of the ANO No. 2 unit, AP&L states that its Period II estimates were prepared by reference to a budget which was compiled in October 1978 and which anticipated commercial operation of that unit on January 15, 1979. AP&L expresses its belief that its budget projections were consistent with the Commission's filing regulations, and denies that rejection of the filing is appropriate. However, the company has offered to delay the effective date of its proposed rates until ANO No. 2 becomes operational, in exchange for a one day suspension of those rates.[13]

AP&L further denies that the late payment clause included in its filed rate schedules violates the provisions of its settlement agreement. According to the company, such a requirement is a necessary incentive for prompt payment which does not directly affect rate design.

Having considered AP&L's submittal and the pleadings of the parties, we find no basis upon which to reject the company's filing. Despite allegations to the contrary, we find that the submittal substantially complies with our filing requirements.[14] Accordingly, we shall deny Customers' motion to reject. The remaining matters raised by Customers will be resolved on the basis of an evidentiary hearing which we shall order to be convened.

Several of Customers' arguments suggest an actual or potential price squeeze situation. Pursuant to the policy set forth in Order No. 563, and in Section 2.17 of our Regulations, we find it is appropriate that price squeeze procedures be initiated in this case. In the interests of administrative economy, we have decided that, henceforth, newly docketed rate proceedings in which price squeeze issues are raised should be phased so that a decision may first be reached on cost of service, capitalization and rate of return issues. It is our hope that the decisions we reach on those issues will often reduce proposed wholesale rates to the point where price squeeze concerns are eliminated, or at least substantially diminished. If the price squeeze persists, in the view of the alleging party, a second phase of the proceeding will follow. Accordingly, this portion of the case will be phased.

There may be situations in which price squeeze issues should not be deferred and we leave it to the discretion of the presiding judges to determine whether the price squeeze discovery or hearing portions of a case should proceed immediately. Presiding judges may act on their own motions or on the request of a party to accelerate price squeeze proceedings; however, these are discretionary rulings which will not be appealable to the Commission under Section 28 of our Rules of practice and Procedure.

The Commission finds that participation in this proceeding by Customers may be in the public interest.

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore, we shall accept AP&L's submittal for filing and suspend the proposed rates for five months from 60 days after the filing date, to become effective January 7, 1980, subject to refund.

The Commission orders

(A) The rates proposed by AP&L are hereby accepted for filing and suspended for five months, to become effective January 7, 1980, subject to refund.

(B) Customers' motion to reject the filing in whole or in part is hereby denied.

(C) Waiver of the requirements in Section 35.14 of the Regulations is hereby denied.

(D) Within thirty (30) days of the issuance of this order, AP&L is hereby requested to tender all information specified in Attachment B, *infra*.

(E) 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, 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 rates proposed by AP&L.

(F) Pursuant to Section 2.17 of the Commission's Regulations, we hereby order initiation of price squeeze procedures.

[10] It should be noted that Section 35.14 clearly declares non-conforming fuel adjustment clauses to be contrary to the public interest.

[11] For example, the 65% capacity factor limitation discussed in the pleadings is nowhere to be found in the alternative fuel clause submitted to this Commission by AP&L. Neither are AP&L's revised energy rates explained or supported. Little, if any, information has been submitted regarding the state-imposed formula.

[12] In the Matter of Fuel Adjustment Charges Levied by Arkansas Power & Light Company, Docket No. U-3023, Order No. 3, issued July 3, 1979.

[13] Our analysis reveals that the one day suspension proposed by AP&L would not be consistent with the public interest.

[14] *See Municipal Light Board* v. *F.P.C.*, 450 F.2d 1341 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 989 (1972).

(G) The petitioners listed in footnote 4, *supra*, are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petition 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 or orders of the Commission entered in this proceeding.

(H) The Staff shall serve top sheets in this proceeding on or before November 7, 1979.

(I) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge shall convene a conference in this proceeding to to be held within ten (10) days of the serving top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated Law Judge is authorized to establish procedual dates and to rule upon all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(J) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

Attachment A

Arkansas Power & Light Co.

Rate Schedule Designations

Dated: Undated.

Designation, Customer and Description

Supplement No. 10 to Rate Schedule FPC No. 45 (Supersedes Supp. No. 9 as Supplemented)—Farmers Electric Coop. Corporation; Rate Schedule WC 2.

Supplement No. 7 to Rate Schedule FPC No. 49 (Supersedes Supp. No. 5 as Supplemented)—City of North Little Rock; Rate Schedule WM 2.

Supplement No. 6 to Rate Schedule FPC No. 50 (Supersedes Supp. No. 5 as Supplemented)—Hope Water & Light Commission; Rate Schedule WM 2.

Supplement No. 8 to Rate Schedule FPC No. 55 (Supersedes Supp. No. 7 as Supplemented)—City of West Memphis; Rate Schedule WM 2.

Supplement No. 5 to Rate Schedule FPC No. 56 (Supersedes Supp. No. 4 as Supplemented)—City of Prescott; Rate Schedule WM 2.

Supplement No. 8 to Rate Schedule FPC No. 57 (Supersedes Supp. No. 6 as Supplemented)—Conway Corporation; Rate Schedule WM 2.

Supplement No. 6 to Rate Schedule FPC No. 60 (Supersedes Supp. No. 5 as Supplemented)—Benton Municipal Light & Water Works; Rate Schedule WM 2.

Supplement No. 6 to Rate Schedule FPC No. 62 (Supersedes Supp. No. 5 as Supplemented)—North Arkansas Electric Coop., Inc., Rate Schedule WC 2.

9. Supplement No. 9 to Rate Schedule FPC No. 63 (Supersedes Supp. No. 8 as Supplemented)—City of Osceola; Rate Schedule WM 2.

10. Supplement No. 6 to Rate Schedule FPC No. 68 (Supersedes Supp. No. 5 as Supplemented)—City of Jonesboro; Appendix B.

[FR Doc. 79-25176 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER 79-429]

Black Hills Power & Light Co.; Order Accepting Rates for Filing, Suspending Proposed Rate Increase and Establishing Procedures

Issued: August 6, 1979.

On June 8, 1979, Black Hills Power and Light Company (Black Hills) submitted for filing increased tariff rates for full-requirements service to the Cities of Gillette and Upton, Wyoming.[1] The rates proposed by Black Hills would result in increased revenues from these customers of $700,083 (or 38.43%) based on the 12-month period which ended December 31, 1978.

Notice of the filing was issued on June 18, 1979 with protests or petitions to intervene due on or before July 9, 1979. On July 6, 1979, the City of Gillette, Wyoming (Gillette) filed a Notice of Protest.

In its protest, Gillette has set forth a number of allegations. Among other items, Gillette has complained that the fuel adjustment clause has been unfairly manipulated by Black Hills. Gillette has also asserted that all costs attributable to a new 230 kv transmission line should be excluded from Black Hills, case-in-chief since Gillette is not benefited by such line.

As a result of these and other items, Gillette has requested that this Commission deny Black Hills' proposed rate increase. Gillette has also requested that the proposed increase be spread over the next five years, relief beyond our authority to grant, and that the Commission suspend the proposed tariff for 120 days.

Our review of Black Hill's filing indicates that the company has functionalized its general plant on a basis other than labor ratios. We shall require Black Hills to meet the burden of showing that the use of labor ratios for the functionalization of general plant is unreasonable as applied to the company, not merely that its alternative method might be reasonable. This requirement is consistent with prior Commission action.[2]

Our review also indicates that Black Hills has included in its rate schedules a tax adjustment clause. Black Hills is hereby advised that any adjustment to its rates which may be contemplated pursuant to this clause would constitute a change in rates requiring filing pursuant to Section 35.13 of the Commission's Rules and Regulations. It is this Commission's policy not to allow automatic changes in rates through such tax clauses.[3]

Our review indicates that the rates proposed by Black Hills have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission will accept Black Hills' submittal for filing and suspend the rates for five months, to become effective January 7, 1980, subject to refund. With regard to the allegations set forth by Gillette in its Notice of Protest, we find that these issues may properly be considered in an evidentiary hearing.

We note that the City of Gillette has filed a protest pursuant to Section 1.10 of the Commission's Rules and Regulations. It has not requested to intervene pursuant to Section 1.8 of the Regulations. Therefore, we will not make Gillette a party to this docket but will place its protest in the public files to be made available to the Commission Staff and to other parties as appropriate.

The Commission orders

(A) Black Hills' proposed rates are hereby accepted for filing and suspended for five months, to become effective January 7, 1980, subject to refund.

(B) Black Hills must meet the burden of showing that the use of labor ratios is an unreasonable method of functionalization for its general plant expenses.

(C) The City of Gillette's protest shall be placed in the public files pursuant to

[1] *See,* Attachment A for rate schedule designations.

[2] *See, Upper Peninsula Power Company,* Docket No. ER79-107 (Issued February 12, 1979), *Missouri Utilities Company,* Docket No. ER79-21 (issued February 2, 1979); *see also,* Opinion Nos. 20 and 20-A, issued August 3, 1978 and October 30, 1978, respectively, *Minnesota Power & Light Company,* Docket Nos. E-9499 and E-9502 and *Superior Water, Light and Power Co.,* Docket No. ER76-20.

[3] *See, Boston Edison Company,* Docket No. ER78304 (order issued May 30, 1978); *Kansas City Power & Light Company,* Docket No. ER79-141 (order issued March 13, 1979).

Section 1.10 of the Commission's Rules and Regulations.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, 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 rate schedules proposed by Black Hills in the instant docket.

(E) The Staff shall serve top sheets in this proceeding on or before November 4, 1979.

(F) A presiding administrative law judge to be designated by the Chief Administrative Law Judge shall convene a conference in this proceeding to be held within (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated law judge is authorized to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

Black Hills Power & Light Co.

Filed: June 8, 1979.

Dated: May 29, 1979.

Other Parties: Cities of (1) Gillette and (2) Upton, Wyoming.

(1) Supplement No. 5 to Rate Schedule FPC No. 17 (Supersedes Supplement No. 4 thereto)

(2) Supplement No. 3 to Rate Schedule FPC No. 18 (Supersedes Supplement No. 2 thereto)

[FR Doc. 79-25177 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER 79-564]

Carolina Power & Light Co.; Filing

August 8, 1979.

The filing company submits the following:

Take notice that Carolina Power & Light Company on August 1, 1979, tendered for filing changes outlined below in its agreements with certain electric membership corporations, the Town of Farmville, and the Southeastern Power Administration.

1. *Tideland EMC*—The termination and cancellation of the Hobucken 23 KV Point of Delivery.

2. *Tri-County EMC*—The establishment of a new point of delivery at 115 KV to be known as Genoa.

3. *Carteret-Craven EMC*—The relocation of metering equipment from customer's old 115/33 KV substation to customer's new 115/12 KV substation at the Atlantic Beach Point of Delivery.

4. *Town of Farmville*—Relocation of the point of delivery from Company's 12 KV distribution line to Company's 12 KV substation bus.

5. *Southeastern Power Administration*—An amendment to Contract No. 89-00-1501-504 to modify the procedures for dealing with excess energy.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. 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 part 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. 79-25178 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-399]

The Cleveland Electric Illuminating Co.; Order Accepting for Filing and Suspending Proposed Increased Rates for Firm Power and Transmission Services, Suspending Transmission Tariff Terms and Conditions, Granting Intervention and Establishing Procedures

Issued: July 31, 1979.

On May 31, 1979, the Cleveland Electric Illuminating Company (CEI) tendered for filing Revised Schedule B to its Rate Schedule FERC No. 12, containing increased rates and charges applicable to firm power sales to the City of Cleveland, Ohio (City) and Revised Sheet No. 6 to its FERC Electric Tariff, Original Volume No. 1, containing increased rates and charges for transmission service under its transmission service tariff.[1] CEI states that the proposed rates and charges would increase revenues from firm power sales under the Revised Schedule by $3,194,000 (21.4%), based on calendar year 1979, the projected test period.[2] CEI also states that it is unable to project the amount of increased revenues from the increase in rates and changes for transmission service because no transactions have yet taken place under the transmission service tariff.[3] CEI requests an effective date of August 1, 1979, for its proposed rates for both firm power service and transmission service.

Public notice of the filing was issued on June 11, 1979. Protests and petitions to intervene were due on or before July 2, 1979.

On July 2, 1979, the City filed a protest and petition to intervene in the proceeding and a reqest for a five-month suspension and hearing. In support of its request for suspension and hearing with regard to firm power service, the City states that CEI has not sustained its burden of proving that the proposed rate increase is just and reasonable. The City states that the rates are based on an excessive overall rate of return, including a return on common equity of 15 percent. In addition, the increased rates are based on a working capital allowance derived from the 45-day formula which the City believes to be improper in this instance, and on projected costs and allocations which have allegedly not been shown to be proper. In arguing for a full five-month suspension, the City states that the proposed increased revenues of approximately $3,200,000 on an annual basis are a *de minimis* percentage of CEI's electric revenues and the increased revenues associated with the five months of suspension represent a minuscule portion of CEI's electric revenues, especially when compared with the City's financial plight.

In support of its request for a full five month suspension and hearing regarding the transmission rate increase, the City states that the increase in rates and

[1] Designated as follows:

Cleveland Electric Illuminating Company Supplement No. 3 to Rate Schedule No. 12 (Supersedes Supplement No. 2 to Rate Schedule No. 12).

Cleveland Electric Illuminating Company 1st Revised Sheets No. 6 & 8 under FERC Electric Tariff Original Volume No. 1 (Supersedes Original Sheets No. 6 & 8).

[2] Under CEI's proposals, the demand charge is to be increased to $6.10/kW from $3.85/kW, and the energy charge is to be increased to 1.977 cents/kWh from 1.415 cents/kWh.

[3] Under CEI's proposals, the rates and charges for transmission service are to be increased to $1.27/kW/month from $0.72/kW/month.

charges is more than 76 percent and that the rate of $1.27/kW/month also includes an excessive 15 percent rate of return on common equity. Moreover, the existing tariff is now before the Commission on exceptions from the Initial Decision of the Presiding Judge in Docket No. ER78-194.[4] The City notes that in the Initial Decision, the Presiding Judge ordered that certain terms and conditions of the transmission service tariff be revised by CEI to comply with the standards of the Federal Power Act. The City also notes that the Nuclear Regulatory Commission (NRC) Enforcement Staff has ordered CEI to revise the transmission service tariff along the lines ordered by the Presiding Judge in Docket No. ER78-194.[5]

Our review of CEI's filing with respect to firm power sales to the City indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Our review of CEI's filing with respect to the transmission service tariff also indicates that the proposed rates, terms and conditions have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Therefore, we shall accept CEI's proposed firm power rates and transmission service rates for filing and suspend them for one day, to become effective August 2, 1979, subject to refund, pending the outcome of a hearing and decision thereon. The transmission service tariff terms and conditions are hereby accepted for filing and suspended for one day, to become effective August 2, 1979, and are to be conformed to the terms and conditions found to be just and reasonable in Docket No. ER78-194.

The Commission orders

(A) The City of Cleveland is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that the participation of the intervenor shall be limited to matters set forth in the petition to intervene; and *Provided, further,* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(B) CEI's proposed rates for firm power sales are hereby accepted for filing and suspended for one day, until August 2, 1979, when they shall become effective, subject to refund.

(C) CEI's proposed transmission service tariff is hereby accepted for filing and suspended for one day, until August 2, 1979, when the rates shall become effective subject to refund. The tariff terms and conditions are to be conformed to the terms and conditions found to be just and reasonable in Docket No. ER78-194.

(D) A public evidentiary hearing shall be held concerning the justness and reasonableness of the rate schedules proposed by CEI in this docket.

(E) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before October 30, 1979.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate and sever, and motions to dismiss) as provided for in 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25179 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER 79-555]

The Connecticut Light & Power Co.; Transmission Agreement

August 8, 1979.

The filing company submits the following:

Take notice that on July 31, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Littleton Light and Water Department (LITTLETON).

CL&P states that the Transmission Agreement provides for a transmission service to LITTLETON for the wheeling of LITTLETON's entitlement in the Vermont Yankee nuclear generating facility during the period from March 1, 1980 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which LITTLETON is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by LITTLETON to intervening systems.

CL&P requests an effective date of April 1, 1980 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and LITTLETON, Littleton, Massachusetts.

CL&P further state that the filing is in accordance with Section 35 of the Commission's regulations.

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 procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25180 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

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[4] *See, The Cleveland Electric Illuminating Co.,* Docket No. ER78-194, Initial Decision on Proposed Transmission Service Tariff, issued April 27, 1979.

[5] *See, The Cleveland Electric Illuminating Co.,* NRC Docket Nos. 50-440A and 50-441A, order issued June 25, 1979.

[Docket No. ER79-558]

The Connecticut Light & Power Co.; Transmission Agreement

August 8, 1979.

The filing Company submits the following:

Take notice that on July 31, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Hudson Light and Power Company (HUDSON).

CL&P states that the Transmission Agreement provides for a transmission service to HUDSON for the wheeling of HUDSON'S entitlement in the Vermont Yankee nuclear generating facility during the period from March 1, 1979 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which HUDSON is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by HUDSON to intervening systems.

CL&P requests an effective date of March 1, 1979 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and Hudson, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

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, N.E., Washington, D. C. 20426, in accordance with §§ 1.8, and 1.10 of the Commission's rules of practice and procedures (18CFR1.8,1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the apropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25181 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-561]

The Connecticut Light & Power Co.; Transmission Agreement

August 8, 1979.

The filing Company submits the following:

Take notice that on July 31, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Municipal Light Commission of the City of Taunton (TAUNTON).

CL&P states that the Transmission Agreement provides for a transmission service to TAUNTON for the wheeling of TAUNTON's entitlement in the Vermont Yankee nuclear generating facility during the period from March 1, 1980 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which TAUNTON is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by TAUNTON to intervening systems.

CL&P requests an effective date of March 1, 1980 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and TAUNTON, Taunton, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's regulations.

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, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25182 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-562]

The Connecticut Light & Power Co.; Transmission Agreement

August 8, 1979.

The filing Company submits the following:

Take notice that on July 31, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) North Attleboro Electric Department (NORTH ATTLEBORO).

CL&P states that the Transmission Agreement provides for a transmission service to NORTH ATTLEBORO for the wheeling of NORTH ATTLEBORO'S entitlement in the Vermont Yankee nuclear generating facility during the

period from April 1, 1980 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which NORTH ATTLEBORO is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by NORTH ATTLEBORO to intervening systems.

CL&P requests an effective date of April 1, 1980 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and NORTH ATTLEBORO, North Attleboro, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

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, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25183 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-563]

Florida Power & Light Co.; Filing

August 8, 1979.

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL), on August 1, 1979, tendered for filing an amendment to an agreement executed only by it, entitled "Amendment Number One to Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and Lake Worth Utilities Authority." Under the Amendment filed today, FPL will transmit power and energy for the Lake Worth Utilities Authority (LWUA) as is required by LWUA in the implementation of its interchange agreement with the Jacksonville Electric Authority.

FPL requests that waiver of § 35.3 of the Commission's regulations be granted and that the proposed amendment be made effective immediately. FPL states that copies of the filing were served on the Utilities Director of the LWUA.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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 August 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25184 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No.ER79-565]

Louisville Gas & Electric Co.; Proposed Tariff Change

August 8, 1979.

The filing company submits the following:

Take notice that Louisville Gas and Electric Company (Louisville) on August 1, 1979, tendered for filing proposed changes in its Interconnection Agreement between Louisville and Big Rivers Electric Corporation (Big Rivers) designated FERC Rate Schedule No. 27.

The purpose of this filing is to increase the demand charge for short term power as set forth on Service Schedule C from 60¢ per kilowatt per week to 70¢ per kilowatt per week. This proposed revision reflects a desire on the part of both parties to attain the optimum benefit from the interconnection of their systems.

Copies of the filing were served upon Big Rivers and the Energy Regulatory Commission of Kentucky.

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, N.E., 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 August 27, 1979. 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 itervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25185 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2915]

Madison Paper Corp.; Application for Preliminary Permit

August 8, 1979.

Take notice that on March 13, 1979, Madison Papar Corporation (Applicant) filed an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)) for a proposed water power project to be known as the Madison Development, FERC Project No. 2915 located about 1.5 miles downstream of the Town of Madison, Maine on the Kennebec River, a navigable waterway. The site of the proposed Madison Development (also referred to as the Lower Abenaki site) is approximately one mile below the Abenaki Dam and within the boundaries of the Abenaki Project, FERC No. 2364, for which Madison Paper Corporation (Applicant) holds a license.

An application for preliminary permit was filed by the Town of Madison Electric Works Department on

December 13, 1977 proposing the multi-development Kennebec River Hydroelectric Project, FERC No. 2830. One of the proposed developments is the Madison Development (Lower Abenaki site), the site for which Applicant has filed a competing conditional application. It is Applicant's position that, as the licensee of the Abenaki Project, it should have a first priority over all others to develop further its project so long as such priority does not prevent the prompt economical development of the resource. Applicant has moved that the Commission reject the application of the Town of Madison Electric Works Department for Project No. 2830 and rule that no applications for preliminary permits related to the Abenaki Project, FERC No. 2364, will be entertained so long as Applicant is actively pursuing further development of its project. Should the Commission decide not to so rule, Applicant seeks a preliminary permit as set forth in its "conditional" application.

Correspondence with the Applicant should be directed to: Mr. Frank A. Knight, President, Madison Paper Corporation, Box 129, Madison, Maine 04950; and David B. Ward, Esquire, Case & Ward P.C., 1050 Seventeenth Street, N.W., Washington, D.C. 20036.

Project Description—The project would include: (1) a concrete dam approximately 625 feet long and 23 feet high; and (2) a powerhouse containing hydroelectric generating capacity of 8,600 kW capable of producing an estimated annual average output of 54,000,000 kWh.

Proposed Scope and Cost of Studies Under Permit—The work proposed would include mapping, surveys, preliminary environmental studies, subsurface exploration, material testing, preliminary designs, and economic analyses sufficient to permit the Applicant to make an informed decision as to feasibility of developing the Madison Development. Following any decision to proceed with the project, further investigations would be performed sufficient to prepare preliminary plans and an application for a license for the project. Assuming a license application would be prepared, the cost of work to be performed under the preliminary permit would approximate $125,000.

Purpose of Project—Energy from the project would be used by the Applicant to operate its Madison Paper Mill with substantially increased capacity currently under consideration for the production of ground wood pulp and groundwood paper.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for license. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before October 15, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25186 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-567]

Missouri Utilities Co.; Cancellation

August 8, 1979.

The filing company submits the following:

Take notice that the Missouri Utilities Company (MU) on July 31, 1979 tendered for filing a notice of cancellation and termination of the Electric Service Agreement between the City of Malden, Missouri and MU.

MU indicates that the Agreement will terminate under its own terms as of October 1, 1979 and states that the City of Malden was given notice of termination on September 28, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25187 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP72-154 (PGA78-1) et al.]

Northwest Pipeline Corp.; Granting Extension of Time

August 3, 1979.

On July 19, 1979, a motion was filed by Provident Resources, Inc., intervenor in the above-referenced proceedings, for an extension of time for filing the report required by Paragraph (E) of the Commission's order issued July 6, 1979. The motion states that the Commission's order was not received until July 16, 1979, and that the remaining time is insufficient to collect the requested data.

Upon consideration, notice is hereby given that an extension of time is

granted to and including August 15, 1979, for filing the required report.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-25188 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2925]

Pacific Northwest Generating Co.; Application for Preliminary Permit

August 8, 1979.

Take notice that on April 13, 1979, Pacific Northwest Generating Company (Applicant) filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. Section 791(a)–825(r)] for a proposed water power project to be known as the Asotin Project, FERC No. 2925, located on the Snake River, a navigable waterway, in Asotin County, Washington and Nez Perce County, Idaho. The project would affect lands of the United States under the jurisdiction of the Bureau of Land Management and the Corps of Engineers. The portion of the river to be affected by the project has been designated by the Hells Canyon Act (Public Law No. 94–199) to be studied for potential addition to the Wild and Scenic Rivers System (System). Under this Act, the Secretary of the Interior has until September 15, 1979, in which to study and submit a report to the President on the suitability of adding this portion of the river to the system. The President would have three years to report his recommendation to the Congress.

Correspondence with the Applicant should be directed to: Mr. David E. Piper, Manager, Pacific Northwest Generating Company, 10570 SE. Washington Street, Suite 204, Portland, Oregon 97216.

Project Description—The project would include: (1) A dam, including a rockfill embankment and a concrete gravity structure, containing a spillway and a powerhouse. Four generating units with a total capacity of 384 MW are proposed; (2) A reservoir with its maximum proposed water surface at elevation 856.5 feet, extending to the Oregon border; and (3) Fish ladders for upstream migrants, and collection facilities for downstream migrants.

Proposed Scope and Cost of Studies Under Permit—Sufficient engineering and economic studies and an environmental assessment would be prepared by late 1980 to permit the Applicant to make an informed decision as to the feasibility of developing the Asotin Project. Following any decision to proceed with the project, further investigations would be performed sufficient to prepare preliminary plans and an application for a license for the project. It is anticipated that the planning and decision-making process and preparation of the license application would be completed during the 36-month period of the preliminary permit and that the costs incurred would be approximately $2,550,000.

Purpose of Project—Energy from the project would be used by the Applicant (consisting of 17 member cooperatives,) to serve its loads directly or through an energy exchange program with the Bonneville Power Administration.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for license. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules.

Any protest, petition to intervene, or agency comments must be filed on or before October 11, 1979. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25189 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-543]

Pacific Power & Light Co.; Filing

August 8, 1979.

The filing company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on July 30, 1979, tendered for filing, in accordance with Section 35.13 of the Commission's Regulations, a Supplemental Agreement providing for an increase in rates for service to Cheyenne Light, Fuel and Power Company (Cheyenne) under Pacific Rate Schedule FPC No. 108. The proposed changes would increase revenues from jurisdictional sales and service by $830,867 based on the 12-month period ending December 31, 1978.

The proposed changes have been filed to partially reflect the increase in Pacific's investment, operating expenses and capital costs.

Copies of the filing were served upon Cheyenne, the public utility's jurisdictional customer, and a copy of the proposed revision and comparative billing information were served on the Public Service Commission, The State of Wyoming.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1979. 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. 79-25190 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-552]

Pacific Power & Light Co.; Proposed Tariff Change

August 8, 1979.

The filing company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on July 31, 1979, tendered for filing, in accordance with Section 35.13 of the Commission's Regulations, a Supplemental Agreement providing for an increase in rates for service to the Montana-Dakota Utilities Co., (Montana), under Pacific Rate Schedule FPC No. 129. The proposed change would increase revenues from jurisdictional sales by a total of $320,070 based on the 12-month period ending December 31, 1978.

The proposed changes have been filed to partially reflect the increase in Pacific's investment, operating expenses, and capital costs.

Copies of the filing were supplied to Montana and the Public Service Commission, The State of Wyoming.

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, N.E., 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 and 1.10). All such petitions or protests should be filed on or before August 27, 1979. 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. 79-25164 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER 79-551]

Philadelphia Electric Co. (PE); Application

August 8, 1979.

The filing company submits the following:

Take notice that on July 31, 1979, Philadelphia Electric Company (PE) with the concurrence of Jersey Central Power & Light Company (JC) tendered for filing pursuant to Section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder, an Agreement between PE and JC, dated July 13, 1979.

PE states that the Agreement provides for the sale of energy and capacity by PE to JC at least through 1984 in amounts related to PE's ownership share of the output and capacity of Salem No. 2 Unit at Salem Nuclear Generating Station, Salem County, New Jersey.

PE requests that the filing be permitted to become effective on the date of the first electric output by Salem No. 2 Unit.

PE states that a copy of this filing has been sent to JC, the Public Utility Commission of the Commonwealth of Pennsylvania and the Board of Public Utilities of the State of New Jersey.

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, N.E., Washington, DC 20426, in accordance with §§ 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 August 27, 1979. 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. 79-25165 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-69]

State of Alabama, Section 102 NGPA Determination, Grace Petroleum Corp., Two Wells, JD79- 9658 and 9659; Preliminary Finding

Issued: August 3, 1979.

On June 21, 1979, the State of Alabama Oil and Gas Board (Alabama) submitted to the Commission notice of two determinations, which respectively state that two wells [1] of the Grace Petroleum Corporation are producing new natural gas as defined in section 102 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published Alabama's notice in the **Federal Register** on July 19, 1979.

New natural gas under section 102 of the NGPA includes gas produced from new, onshore reservoirs. According to section 102(c)(1)(C), a reservoir qualifies as a new, onshore reservoir if, among other requirements, natural gas was not produced in commercial quantities from the reservoir before April 20, 1977. Under § 274.202(d)(1)(ii) of the Commission's Interim Regulations (18 CFR § 274.202(d)(1)(ii)), an applicant seeking a section 102(c)(1)(C) determination must file sufficient geological information to support a determination that the reservoir is a new onshore reservoir.

Alabama based its two determinations on findings that the two wells are producing from new, onshore reservoirs. But the records submitted to the Commission by Alabama with its determinations lack the geological information required to support the findings that the reservoirs involved are new, onshore reservoirs.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to 18 CFR § 275.202(a)(1)(i)) that these two determinations submitted by Alabama are not supported by substantial evidence in the records on which the determinations were made.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-25166 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-64]

State of Kentucky, Section 108 NGPA Determinations, Applicant: J. W. Kinzer, JD79-9309 et al.; Preliminary Finding

Issued: August 3, 1979.

On June 19, 1979, the State of Kentucky Energy Regulatory Commission (Kentucky) submitted to the Federal Energy Regulatory Commission (Commission) fifteen notices of determination which state that the

[1] JD Number and Well Name and Number
79-9658—A.M. Grimsley #12.
79-9659—J.C. Randolph #1-19.

subject wells* qualify for a maximum lawful price under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published Kentucky's notice on July 3, 1979.

Section 108(b)(1) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce at its maximum efficient rate of flow nonassociated natural gas at a rate which does not exceed an average of 60 Mcf per production day during a 90-day production period *preceding* the jurisdictional agency determination. Further, section 271.804(c) of the Commission's regulations implementing that section of the NGPA provides that applications for a stripper-well determination shall be based on a 90-day production period ending within 120 days prior to the date on which the application is filed.

The production records accompanying the subject notices of determination indicate that the 90-day production periods upon which the applications are based do not end within 120 days prior to the date on which the applications were filed as required by our regulations. Thus, it appears that the records accompanying Kentucky's determinations lack evidence supporting a finding that the subject wells' rate of production did not exceed an average of 60 Mcf per production day during a 90-day production period which ends within 120 days prior to the date on which the applications were filed.

Accordingly, the Commission hereby makes a preliminary finding, pursuant to 18 C.F.R. § 275.202(a)(1)(i), that the determinations submitted by the State of Kentucky Energy Regulatory Commission that the subject wells qualify as stripper wells under section 108 of the NGPA are not supported by substantial evidence in the records upon which the determinations were made.

* *FERC Control No. and Well Name.*
JD79—9309—Montgomery Coal, Block 12, Well 2.
JD79—9310—Montgomery Coal, Red Oak #1.
JD79—9311—Montgomery Coal, Block 9, Well 2.
JD79—9312—Fannie J. Runyon #1.
JD79—9313—Beckham Combs Well #1.
JD79—9315—Hopkins Well #1.
JD79—9317—Montgomery Coal, Block 7, Well 1.
JD79—9318—Montgomery Coal, Block 6, Well 2.
JD79—9321—Ford Motor Well #48.
JD79—9325—Montgomery Coal, Block 9, Well 1.
JD79—9326—Tierney #1.
JD79—9327—Montgomery Coal, Block 10, Well 1.
JD79—9328—Montgomery Coal, Block 12, Well 1.
JD79—9329—Montgomery Coal, Block 6, Well 1.
JD79—9330—Montgomery Coal, Block 14, Well 1.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-25167 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-71]

State of Louisiana, Section 103 NGPA Determinations; Notice of Preliminary Findings

Issued: August 3, 1979.

In the matter of State of Louisiana, Section 103 NGPA Determinations: Arco Oil and Gas Company Marg H RA SUA, Camile Adam No. 4 Well JD79-9528; The Superior Oil Company 74 RA SUA, LL & EUB No. 5 Well JD79-9530; Petro-Lewis Funds, Inc. NS RC SUB, AC Kerr No. 6 Well JD79-12312.

On June 21, 1979, the State of Louisiana Office of Conservation (Louisiana) submitted to the Commission notice of determinations which state that the Arco Oil and Gas Company Marg H RA SUA Camile Adam No. 4 and the Superior Oil Company 74 RUA SUA, LL & EUB No. 5 wells qualify as new, onshore production wells under section 103 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published Louisiana's notice on July 6, 1979.

On July 12, 1979, Louisiana submitted a notice of determination which states that the Petro-Lewis Funds, Inc. NS RC SUB AC Kerr No. 6 well also qualifies as a new, onshore production well. The Commission published Louisiana's notice concerning this well on July 19, 1979.

To qualify as a new, onshore production well under Section 103 of the NGPA, a well, among other requirements, must not be located on certain existing proration units. (Section 103(c)(3) of the NGPA) Section 271.305 of our interim regulations (18 CFR § 271.305) enumerates the special circumstances where a new well can be drilled on an existing proration unit and still be eligible for a Section 103 determination. For a well drilled between February 19, 1977 and December 31, 1978, the jurisdictional agency authorizing the drilling of the new well must find from record evidence developed prior to the commencement of drilling that the new well was necessary to drain effectively and efficiently a portion of the reservoir covered by the proration unit, which could not be drained effectively and efficiently by any existing well located on the unit. (18 CFR § 271.305(c)).

The evidence accompanying the three determinations by Louisiana indicates the following: The first of the subject wells was spudded on August 9, 1978; the second was drilled on May 8, 1978; and the third was drilled on June 8, 1978. Each of the subject wells was drilled into an existing proration unit. In each case, Louisiana based the required finding (regarding the effective and efficient draining of the pertinent proration unit) on Orders issued by Louisiana after the surface drilling of the subject wells began. The finding for the first well was based on a supplemental Order No. 926-A-1, issued September 6, 1978; the finding for the second well was based on Order No. 495-V-1, issued November 20, 1978; and the finding for the third well was based on a supplemental Order No. 275-C-4, issued January 25, 1979.

Thus, it appears that Louisiana based the requisite effective and efficient findings on record evidence not developed prior to the drilling of the subject wells. Moreover, the applicant for the third well did not submit appropriate geological evidence to support the finding regarding the third well, as required by 18 CFR § 274.204(f).

Accordingly, the Commission makes preliminary findings (pursuant to 18 CFR § 271.202(a)(1)(i)) that the three determinations submitted by Louisiana—that the subject wells qualify as new, onshore production wells under section 103 of the NGPA—are not supported by substantial evidence in the records on which the determinations are based.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-25168 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-66]

State of North Dakota, Section 102 NGPA Determination, Shell Oil Co., USA 34-3-2 JD79-9308, Mondak Field, North Dakota; Preliminary Finding

Issued: August 3, 1979.

On June 19, 1979, the North Dakota Geological Survey, (North Dakota) submitted to the Commission a notice of the determination that the applicable Shell Oil Company well met all the requirements of the new, onshore reservoir provision in Section 102 (c)(1)(C) of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95-621. The Commission published notice of the determination in the Federal Register on July 12, 1979.

According to Section 102(c)(1)(C)(ii) of the NGPA, a reservoir shall not qualify as a new, onshore reservoir if it was penetrated before April 20, 1977, by an old well from which natural gas or crude oil was produced in commercial quantities, and natural gas could have been produced in commercial quantities from such reservoir through the old well before April 20, 1977.

The records show that the Madison Reservoir was penetrated by three old wells (USA 33X–31–1, Swigart 24X, and BN 22–17) and produced oil in commerical quantities prior to April 20, 1977. The casinghead gas produced in conjunction with the oil was flared and Shell attested that royalty payments were made to the USGS on the flared gas.

Since the reservoir was penetrated by old wells from which crude oil was produced in commerical quantities, and the reservoir demonstrated a capability to produce natural gas prior to April 20, 1977, the reservoir is subject to the behind-the-pipe exclusion in Section 102(c)(1)(C)(ii).

Accordingly, the Commission hereby makes a preliminary finding (pursuant to section 275.202(a)(1)(C)) that the determination of North Dakota was not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–25169 Filed 8–14–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP79–75]

State of Texas, Section 108 NGPA Determination, Dorchester Gas Producing Co., McConnel No. 7 Well, JD79–10706; Preliminary Finding

Issued: August 6, 1979.

On June 22, 1979, the Railroad Commission of Texas submitted to the Commission a notice of determination that the McConnel No. 7 Well qualifies as a stripper well under Section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of the determination on July 12, 1979.

Section 108(b)(1) stipulates that in order to meet the fefinition of a stripper well, a well must (A) produce nonassociated natural gas at a rate not exceeding an average of 60 Mcf per production day during the 90-day production period, and (B) produce at its maximum efficient rate of flow, "determined in accordance with recognized conservation practices designed to maximize the ultimate recovery of natural gas."

The data submitted with this determination indicate that during 20 days of the 90-day production period, the well was shut in to meet the requirements of a State "allowables" program. The Commission is unable to determine on the basis of the this data whether or not the allowables program was established by the state for the purpose of maximizing the ultimate recovery of natural gas.[1]

Accordingly, we do not find substantial evidence that the well produced at its maximum efficient rate of flow to meet the test established in section 108(b)(1)(B).

The Commission hereby makes a preliminary finding, pursuant to 18 C.F.R. § 275.202 (a)(1)(i), that the notice of determination submitted by the Railroad Commission of Texas for the above referenced well is not supported by substantial evidence.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–25170 Filed 8–14–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket Nos. G–14562, G–13680, G–13827, G–13948, G–19855, G–19580, G–19851, and G–19900]

Tennessee Gas Pipeline Co. et al.; Order Rejecting Settlement Proposal, Directing Disbursement and Flow-Through of Refunds, and Granting Intervention

Issued: August 6, 1979.

In the matter of Tennessee Gas Pipeline Company (Successor to Tennessee Gas Transmission Company), Continental Oil Company; Mobil Oil Corporation (Successor to Magnolia Petroleum Company), Newmont Oil Company; Continental Oil Company, Atlantic Richfield Company (Successor to Atlantic Refining Company); Cities Service Company (Successor to Cities Service Oil Company); and Getty Oil Company (Successor to Tidewater Oil Company).

I

This proceeding [1] involves a proposal to settle a dispute concerning entitlement to escrowed funds amounting to over $2 million. As an alternative to possibly lengthy litigation on the issue of ownership of these funds, the settlement, which has been proposed by six producers of natural gas and Tennessee Gas Pipeline Company (Tennessee), would permit release of the monies to those producers for use in certain drilling projects, subject to specified terms and conditions. Our staff and Public Service Electric & Gas Company (PSE&G) oppose the settlement.

The two escrow agreements involved were entered into in 1963 and 1965 pursuant to orders issued by the Federal Power Commission (FPC) approving settlements which, among other things, established rates for certain sales of natural gas in offshore Southern Louisiana from the producers or their predecessors to Tennessee.[2]

These sales were from properties located in the so-called disputed zone, an area where there was then uncertainty as to whether it was under the jurisdiction of the State of Louisiana or of the United States. In order to provide for the possibility that the producers might eventually be subject to retroactive liability for Louisiana taxes, Tennessee was required to place in escrow a portion of the price collected.[3] Tennessee terminated the escrow payments in December 1970,[4] but interest has continued to accrue. As of June 30, 1978, the amount in the CAGC-Tennessee escrow account was $793,826.84, and the value of the MCN-Tennessee escrow fund was $1,233,997.

In 1971, the Supreme Court issued a supplemental decree ruling that areas of the disputed zone relevant to this proceeding were in the federal domain,[5] thereby relieving the producers from liability for Louisiana taxes with respect to the sales. On September 30, 1976, the producers filed a petition for an order directing disbursement of the escrowed funds. In that petition, the producers

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[1] The State could demonstrate the purpose of the allowables program by, for example, reference to the legislative history pertaining to the establishement of the program.

[1] This proceeding was commenced before the Federal Power Commission (FPC). By the joint regulation of October 1, 1977 (10 CFR § 1000.1), it was transferred to the Federal Energy Regulatory Commission FERC). The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] The producers are Continental Oil Company, Mobil Oil Corporation, and Newmont Oil Company (collectively MCN), Docket Nos. G–13680, G–13827, and G–13948, settlement approved January 2, 1963, 29 FPC 4; and Continental Oil Company, Atlantic Richfield Company, Cities Service Company, and Getty Oil Company (collectively CAGC), Docket Nos. G–19855, G–19580, G–19851, and G–19900, settlement approved December 21, 1962, 28 FPC 1090.

[3] The MCN settlement provided for 1.625 cents per Mcf to be escrowed. Under the CAGC settlement, one cent per Mcf was placed in escrow.

[4] The pleadings do not explain why the escrow payments were discontinued at that time.

[5] *United States of America* v. *The State of Louisiana*, 404 U.S. 388 (1971).

took the position that they are entitled to the monies on the basis of Opinion Nos. 598 and 598–A, [6] which established just and reasonable rates for jurisdictional sales in the Southern Louisiana area including, the producers alleged, the sales for which rates had previously been established by the FPC's orders in these dockets. The producers contended that since the rates established in Opinions 598 and 598–A for gas of this vintage for all periods involved equalled or exceeded the rates which had been paid by Tennessee, including the sums placed in escrow, there is no reason why the escrowed funds should not be disbursed to them. They further argued that the public policy considerations which the FPC had previously relied upon in approving a settlement in a similar case were equally applicable here, and they requested that the funds be disbursed to them under the terms and conditions which had been approved in that settlement.

A notice of the petition was issued on March 4, 1977, [7] and the producers filed a motion on September 12, 1977 to expedite the issuance of an order. An informal conference was held on the matter on January 27, 1978, which was recessed by agreement of the parties in order to permit a settlement agreement to be negotiated. On August 8, 1978, the producers and Tennessee filed a motion for the promulgation of the settlement proposal now before us. Following the issuance of a notice of the proposal on September 29, 1978, all comments were received by December 7, 1978 from the staff, PSE&G, the producers, and Tennessee.

II

The essential features of the settlement proposal are as follows:

Within a two-year period beginning with the date on which Commission approval of the settlement is no longer subject to judicial review, each producer may request and receive a specified percentage of the funds in the appropriate escrow account, including interest to the date of distribution. The producers must use such funds in undertaking one of the two projects outlined in Exhibits 2 and 3 to the proposal or other projects later agreed to by the producers and Tennessee. [8] The producers must invest $3 of their own money for every $2 of escrowed funds spent on a project. All natural gas produced from wells developed pursuant to these projects will be sold to Tennessee at the applicable nationwide rate or ceiling rate established by legislation. Any withdrawn funds not spent on a project within the two-year period must be returned to Tennessee by the producers. [9] Such funds, as well as any sums remaining in the escrow accounts, will then be flowed through by Tennessee to its customers.

As the producers emphasize in their comments, the settlement proposal, including the $3-for-$2 matching formula, is modeled upon, and substantially similar to, settlements approved by the FPC in proceedings involving Kerr-McGee Corporation [10] and Shell Oil Company. [11] Both of those cases, like the instant proceeding, involved settlements of a dispute as to ownership of funds escrowed because of potential tax liability for production of natural gas in the disputed zone. The producers contend that those precedents should be followed and that they are entitled to the same treatment that the FPC afforded to the producers in the prior proceedings.

At the informal conference held on January 27, 1978, the staff advised the producers that it would not consider a *Kerr-McGee*-type settlement unless, as had been done in *Shell*, specific projects were presented. The proposal filed on August 8, 1978, incorporated that suggestion. Nevertheless, the staff now objects to its adoption because of "radically changed circumstances" since the January 1978 conference.

The staff's opposition is predicated upon its view that the principal reason for the FPC's approval of the *Kerr-McGee* settlement was the incentive it created, at a time of shortage, for the development and production of natural gas for the interstate market. According to the staff, that incentive is no longer needed because, under Section 102 of the Natural Gas Policy Act of 1978 (NGPA), the producers would be entitled to a rate of $2.07 per MMBtu plus periodic escalations for gas produced from the projects specified in the settlement. [12] The staff contends that in light of this rate, the additional incentive which the settlement would provide is unnecessary. [13] Based on its view that Tennessee's customers are legally and equitably entitled to the escrowed funds, the staff recommends that the monies be flowed through to those consumers.

PSE&G takes the position that, in contrast to *Kerr-McGee*, where the amount in escrow was about $23 million, the amount of money involved here (slightly over $2 million as of June 30, 1978) is too small to warrant this settlement. It states that the small number of wells proposed in this case creates the risk that no new gas will flow to Tennessee, whereas in *Kerr-McGee* the risk of failure was spread sufficiently to protect the pipeline's customers.

The producers and Tennessee dispute the staff's assertion that a $2.07 rate will apply to these projects. They claim that since no new reservoir is contemplated, the Section 102 rate will not be collected; instead, the price will be $1.45 plus monthly adjustments under Section 104 of the NGPA.

Therefore, the producers argue, an incentive is needed for them to develop wells from which gas will be produced at this lower cost to customers. Otherwise, they say, they could produce from areas qualifying for the Section 102 rate, with resulting higher costs to customers.

Conceding that the amount involved is relatively small, the producers believe that it is nevertheless sufficient to warrant the drilling of at least two additional wells. In their view, the size of the escrow accounts presents a stronger argument against a refund to consumers, because even if consumers were held to be entitled to the funds, the costs of the flow-through would be substantial and result in only a small benefit. They also contend that a refund could not in any event be properly executed here because some of the customers who paid these sums 8–15 years ago are no longer customers of Tennessee. They conclude that the public would be better served by applying the funds in a lump-sum toward the development of new gas

[6] Opinions and orders issued July 16, 1971 and September 9, 1971, respectively, Docket Nos. AR61–2, *et al.* and AR69–1.

[7] We will grant the petitions to intervene in this proceeding filed by PSE&G and the New England Customer Group.

[8] One of the proposed projects will be undertaken by the CAGC group, and Continental will allocate its share of the funds in both escrow accounts toward that project. The other project will be carried out by Mobil. Newmont does not yet have a viable project but believes that it will within the requisite two-year period.

[9] The producers would pay interest at the rate of 7% per annum on withdrawn but unexpended funds returned to Tennessee at the end of the two-year period. In response to comments of the staff and PSE&G, the producers have agreed to a 9% interest rate if necessary to obtain approval of the settlement.

[10] Order issued October 29, 1974, Docket No. CI67–1594, *rehearing denied*, order issued December 20, 1974.

[11] Order issued March 29, 1976, Docket Nos. CI61–104, CI68–1146, and CI70–102.

[12] The projects call for the drilling of wells in offshore Louisiana, and the staff believes that the Section 102 rate for new gas produced in the Outer Continental Shelf would apply.

[13] The staff also points out, in this connection, that the NGPA, by subjecting intrastate new gas to the Act's price ceilings, relieved the prior disincentive to production for the interstate market created by the previous availability of higher rates in the intrastate market.

supplies than by a refund which, they assert, would yield negligible amounts to each consumer.

Finally, the proponents of the settlement believe that it should be approved in order to alleviate Tennessee's current curtailment situation.

III

We first consider the producers' and Tennessee's argument that the settlement is reasonable and justified on policy grounds similar to those relied upon by the FPC in approving the *Kerr-McGee* and *Shell* settlements.

Both *Kerr-McGee* and *Shell* were decided not only prior to the NGPA but also before the promulgation by the FPC of the new nationwide rates adopted in Opinion Nos. 770 and 770–A.[14] There had been widespread recognition even before the issuance of those opinions that the previous producer rates were inadeqaute and the additional incentives were needed to stimulate development and production of natural gas for the interstate market.[15] In that context, the incentive provided by the settlements in *Kerr-McGee* and *Shell* was a pivotal factor in leading the FPC to conclude that those settlements were in the public interest.

The regulatory framework is substantially different today. The Congress has very recently enacted a legislative approach toward resolution of the energy supply problems facing the nation, including a comprehensive national rate structure. We are not prepared to take action at this time predicated on the premise that the rates set by the provisions of the NGPA are inadequate to achieve the legislative goals, and that an additional incentive is therefore needed in the form of the instant settlement proposal. Rather, we will proceed on the assumption that the new national rates adequately compensate producers for their efforts.

We are not, of course, in a position to predict whether or not the producers will engage in their proposed projects without the escrowed sums. That is a decision which they alone will make, and we think they should make that decision on the basis of the rates set forth in the NGPA and the rules thereunder.[16] They are entitled to no more, and we will not sanction a proposal which would have the effect of granting the producers a double incentive.[17]

Accordingly, the Commission finds that the policy represented by the *Kerr-McGee* and *shell* cases is no longer applicable and does not provide a reasonable or proper basis for approval of the present settlement.

IV

We next consider the producers' claim of entitlement to the escrowed funds as a matter of right. As stated above, the producers assert in their 1976 petition for disbursement that Opinion Nos. 598 and 598–A are controlling with respect to this matter, since the just and reasonable rates established in those opinions for gas sold during the period when funds were deposited into the escrow accounts equalled or exceeded the amounts paid by Tennessee, including the escrowed sums. However, we are unable to reconcile the producers' claim with the provisions of the original settlement agreements approved by the FPC in these dockets.

Specifically, the only stated purpose of the escrow arrangement was to provide a source of funds for Louisiana tax liability, a liability that never came due. There is no indication that the escrow accounts were intended to provide a source of capital for future rate increases to which the producers might later assert entitlement. Indeed, the agreements provided that the settlement prices were to be reduced by the precise amount of the escrowed sums if the properties were determined to be in the federal domain, and in that event the escrowed funds were to be promptly disbursed to Tennessee and held by Tennessee pending a further Commission order. The agreements further provided that in the event of such a determination, the producers would have no rights with respect to the escrowed sums except the right to effect disposition pursuant to a Commission order. The agreements also established a moratorium on rate filings until July 1, 1967, but provided for an upward or downward rate adjustment during the moratorium period pursuant to the FPC's rate determinations in the Southern Louisiana area rate proceeding. However, such an adjustment was to be made only prospectively from the date of the rate determinations. Opinions 598 and 598–A were not issued until 1971, long after the termination of the moratorium period on July 1, 1967.

In light of the express terms of the FPC-approved settlement agreements, we find the producers' claim of entitlement to the subject funds pursuant to Opinion Nos. 598 and 598–A to be without merit. Since the sole contingency for which the escrow accounts were established never materialized, we conclude that the escrowed sums, including accrued interest, must be refunded to Tennessee's consumers.[18]

We disagree with the producers' assertion that even if Tennessee's consumers are entitled to the funds, a refund would be inappropriate in this case because of the flow-through costs involved and the fact that some of the persons who originally paid these sums are no longer Tennessee's customers. The producers do not specify the nature or magnitude of refund costs, and the extent of customer turnover is not a factor here even though as a general matter it is more desirable that those customers who paid these amounts receive the refunds. The passage of time should not constitute a basis for depriving consumers of what is rightfully theirs, particularly since the producers and Tennessee took no steps to resolve this matter until almost five years after the Supreme Court's 1971 decision clarifying the status of the disputed zone. Although a perfect restitutive scheme may no longer be possible, refunds to Tennessee's present consumers as a class would achieve as much equity as is possible under the circumstances.

In view of the foregoing, we find the settlement proposal incompatible with the public interest. Hence, we reject the settlement. It follows that the escrowed funds, including accrued interest, must

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[14] Opinions and orders issued on July 27, 1976 and November 5, 1976, respectively, Docket No. RM75–14.

[15] As observed by the court in *Public Service Commission of New York* v. *F.E.R.C.*, 589 F.2d 542, 559 (D.C. Cir. 1978), the FPC had supplemented its national ratemaking program with a large number of ancillary producer incentive programs.

[16] This conclusion applies regardless of the particular rate to which the producers would be entitled under the NGPA for gas produced pursuant to the projects. Thus, while there is no evidence in the record which would enable us to make a finding as to whether the projects would result in production from a new reservoir, it is not necessary to determine whether the Section 102 or Section 104 rate would apply.

[17] In *Public Service Commission of New York* v. *F.E.R.C., supra*, the court held that the Commission's incentive programs must be coordinated with national ratemaking because, among other reasons, there are "diminishing returns on successive increments of incentive" and because "coordination is required in the interests of justice." The court concluded that a lack of coordination of incentive programs which results in duplication or conflict in incentive approaches would, if continued unchecked, "create an impression that the agency is engaging in an uncontrolled giveaway to the regulated companies without Congressional warrant, instead of protecting the public interest. . . ." 589 F.2d at 559–60. While the court was referring specifically to incentive programs, we think that the principle it expressed is equally applicable to settlements which are predicated on creating incentives for the production of natural gas in the interstate market.

[18] In the absence of any disputed material issues of fact, no evidentiary hearing is required to resolve the legal issue of entitlement to the funds. See, *e.g.*, *Cities Service Gas Company* v. *F.P.C.*, 538 F. 2d 1278, 1290 (D.C. Cir. 1976); *Otter Tail Power Company* v. *F.P.C.*, 536 F. 2d 240, 242 (8th Cir. 1976).

be disbursed to Tennessee and flowed through to Tennessee's customers.

The Commission orders

(A) The petition filed by the producers on September 30, 1976 for an order directing disbursement of escrowed funds, and the motion filed by the producers and Tennessee on August 8, 1978 for promulgation of settlement proposal, are denied.

(B) The aforementioned settlement proposal is rejected.

(C) Within 60 days from the date of this order, the producers and Tennessee shall cause all sums in the subject escrow accounts, including all accrued interest up to the date of disbursement, to be disbursed by the escrow agent to Tennessee.

(D) Within 60 days following disbursement of the subject escrow funds, Tennessee shall flow through all such sums to its jurisidictional customers. Within 15 days thereafter, Tennessee shall submit a report showing its computation of refunds paid.

(E) Upon compliance by the producers and Tennessee with the requirements of paragraphs (C) and (D) above, this proceeding shall be terminated.[19]

(F) The Secretary shall cause prompt publication of this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-25171 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. E-9565]

Town of Massena, New York Niagara Mohawk Power Corp. and Power Authority of the State of New York; Order Granting Request for Summary Disposition in Part, Denying Request for Summary Disposition in Part, and Establishing Expedited Hearing Procedures

Issued: August 1, 1979.

Before the Commission is a motion seeking an interpretation or invalidation of a contractual provision contained in an agreement providing for the wheeling of power by Niagara Mohawk Power Corporation (Niagara Mohawk) from the Power Authority of the State of New York (PASNY) to PASNY preference customers. The issue is whether the contractual provision should be interpreted or reformed to require Niagara Mohawk to provide transmission service to the Town of Massena, New York (Massena). In the order, the Commission interprets the language of the contract and finds that such language expressly limits Niagara Mohawk's obligation to wheel to only those preference customers operating their electric systems as of the date of the contract. However, we find that the provision may be unduly discriminatory or anticompetitive. Accordingly, we direct Niagara Mohawk to show cause why such a provision is not in violation of the Federal Power Act. In addition, we find that PASNY, as a licensee of the Niagara Project, has an affirmative obligation to provide transmission to its preference customers, including Massena. We further find that if this provision is determined to be anticompetitive, PASNY is in violation of its license condition under Section 10(h) of the Federal Power Act. Accordingly, PASNY is directed to show cause why it is not in violation of these license conditions.

Procedural History

This proceeding was initiated by Massena and the City of Sherill, New York, on August 11, 1976, by a joint complaint against Niagara Mohawk and PASNY, pursuant to sections 205(b), 206(a), 306 and 309 of the Federal Power Act (the Act) and pursuant to sections 1.6 and 1.7(c) of this Commission's Rules of Practice and Procedure. [1] Massena renewed its complaint on April 9, 1979 by filing a motion for declaratory judgment (Renewed Motion). [2] In its complaint and motion, Massena seeks invalidation or interpretation of a provision of a contract between PASNY and Niagara Mohawk which would require Niagara Mohawk to provide wheeling service under this contract to Massena. The contract, on file with this Commission and designated as Niagara Contract NS-1 (NS-1), provides, *inter alia*, for the Transmission of Niagara Project power by Niagara Mohawk. PASNY is the licensee of the Niagara Project, a hydro-electric Project No. 2216 licensed by this Commission.

Answers to Massena's August 11, 1976 complaint were filed by Niagara Mohawk and PASNY on September 22, 1976 and September 24, 1976, respectively. In addition, Niagara Mohawk filed an answer to Massena's motion on April 23, 1979. [3]

Finally, on May 30, 1979, Massena filed a "Motion for Expedited Consideration and Immediate Summary Disposition" of its renewed motion citing the existence of related issues in a pending antitrust suit brought by Nassena against Niagara Mohawk in the Federal District Court in the Northern District of New York. On June 13, 1979, the Commission issued a "Notice of Intent to Act" on the underlying motion.

Discussion

The provision at issue, contained in a contract between PASNY and Niagara Mohawk, places limitations on Niagara Mohawk's obligation to transmit power to PASNY's preference customers. [4] NS-1, provides in relevant part:

> Contractor [Niagara Mohawk] agrees to accept delivery of Project power and energy at the points of delivery in effect pursuant to Article III hereof, or at other points to be agreed upon, into its electric transmission system as now or hereafter existing and to deliver an equivalent amount of power and energy, adjusted for losses, to Authority for its own use or *for municipalities and rural*

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[19] PSE&G and the members of the New England Customer Group are permitted to intervene in this proceeding, 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 petitions to intervene; and *provided, further,* that the admission of said intervenors shall not be construed as recognition by the Commission that they may be aggrieved because of any orders of the Commission entered in this proceeding.

[1] By notice dated August 31, 1976, the Commission set September 24, 1976 as the due date for protests and petitions to intervene.

[2] According to Massena, this docket has been dormant since 1976 "for a simple reason. First, Sherrill withdrew from this proceeding, which withdrawal was approved by Order of this Commission dated October 20, 1976. Second, Massena's right to possess and operate Niagara Mohawk's electric distribution system has been the subject of lengthy litigation in the New York state courts culminating in a February 22, 1979, Decision and Order of the St. Lawrence County Court finally granting Massena the right to possess and operate the system." (Renewed Motion at 3)

[3] By letter to the Secretary dated May 1, 1979, PASNY acknowledged receipt of Massena's renewed motion but indicated that it did not intend to file any papers with respect to such motion.

[4] Also challenged in Massena's renewed motion is a provision in the S-6 contract for St. Lawrence Project Power between Niagara Mohawk and PASNY, as follows:

"The electric power and energy to be delivered by Contractor to Authority for Customers from the system of Contractor will be limited to such electric power and energy as is necessary for municipalities, rural electric cooperatives and other entities operating electric systems serving domestic or rural consumers within the St. Lawrence market area. Article XII, par. 3."

An allegation of potentially restrictive language in S-6 was not originally raised in Massena's August, 1976 complaint. However, according to Massena, the PASNY hydroelectric power is transmitted through an integrated system and it is unclear whether power is transmitted from the St. Lawrence or Niagara Project. To avoid any possibility that Niagara Mohawk would refuse to wheel in the future based upon a contention that the PASNY power involved was subject to S-6, rather than NS-1, Massena urges this Commission to decide the issue presented by this Motion under both S-6 and NS-1.

In the pleadings submitted thus far, Niagara Mohawk was not invoked this provision of S-6 to justify its refusal to wheel to Massena. If Niagara Mohawk should assert that this language justifies a refusal to wheel to Massena, we will consider that contract as well.

electric cooperatives which are customers of Authority and are presently operating electric systems serving rural and domestic consumers . . . (Emphasis supplied). Article IX, p. 1.

As a preliminary bar to the Commission's consideration of the complaint and renewed motion, Niagara Mohawk raises objections based on jurisdiction, standing and the need to defer action. According to Niagara Mohawk, NS–1 is a contract "entered into by a state agency to promote electrical distribution which it developed and regulates" and is thus beyond the jurisdiction of the Commission. While we agree that NS–1 contains provisions which are the subject of state regulation, such provisions do not place the entire contract beyond the jurisdiciton of this Commission. Under Section 201(b) of the Federal Power Act, a jurisdictional utility is one which sells at wholesale or transmits electric energy in interstate commerce. Thus, to the extent that it provides for Niagara Mohawk's transmission of PASNY power at wholesale to preference customers, NS–1 provides for jurisdictional transactions, the terms and conditions of which are subject to our regulation. Moreover, allegations and relief requested by Masssena implicitly raise questions related to our authority, under Section 10(h) of the Federal Power Act, to regulate agreements such as NS–1 which deal with obligations of licensees of hydroelectric projects licensed by this Commission.

Having rejected Niagara Mohawk's jurisdictional objection, we turn to the question of Massena's alleged "lack of standing" in this proceeding. In support of its position, Niagara Mohawk cites the Commission's decision in *Niagara Mohawk Power Corp.*, Docket No. E–9570 (July 28, 1976). In that order, the Commission dismissed Massena's complaint seeking interconnection under Section 202. Because the Commission's authority to order interconnection under Section 202(b) is limited to situations where such relief is sought by "any State Commission or any person engaged in the transmission or sale of electric energy," Massena lacked standing to obtain such relief. No such bar is present here since no interconnection is sought. The Complaint here is posted under Sections 205, 206, 306 and 309 of the Act. These sections do not place such limitations on the Commission's authority to act; the Commission may act on its own motion, or on a complaint. Therefore, the fact that Massena is not currently providing electric service does not prevent the Commission from considering the allegations contained in its motion.

Finally, Niagara Mohawk suggests that "principles of judicial economy dictate" that the Commission should defer action on the motion until the antitrust action presently before the district court has been fully litigated. According to Niagara Mohawk, because that proceeding will consider the issues raised by Massena in its motion, consideration of the motion by this Commission will involve both a piecemeal determination of the antitrust issues and duplicative litigation. We disagree. While there may be some overlap of both the issues presented and potential relief, the Commission has the authority to determine the justness and reasonableness of jurisdictional contracts which is independent of the federal district court's authority to enforce the antitrust laws.

Having determined that it is within the Commission's authority to consider the instant motion, we will turn to Massena's request for relief. Briefly stated, Massena seeks either 1) an interpretation of Contract NS–1 to the effect that Niagara Mohawk is obligated to provide NS–1 services to both existing and future preference customers of PASNY or 2) removal of the restrictive language thus imposing a contractual obligation on Niagara Mohawk to transmit and transform PASNY power for both existing and future preference customers of PASNY. According to Massena, Commission precedent interpreting our authority under Part II of the Act, the Niagara Project license issued under Part I of the Act, and considerations of public policy provide ample authority to grant such relief in a summary fashion.

1. *Request for Relief Under Section 205 and 206 of the Federal Power Act.*

In support of a contract interpretation that would require Niagara Mohawk to provide wheeling service to the town, Massena cities the Commission's decision in *Niagara Mohawk Power Corporation*, Docket No. ER76–523 (July 21, 1976). In that order, we examined a Niagara Mohawk PASNY contract which provided, *inter alia*, for the transmissions by Niagara Mohawk of power from PASNY's Fitzpatrick Nuclear Plant to PASNY priority customers. We held that Niagara Mohawk's obligation to wheel to preference customers extended to present and future customers.[5] We note, however, that the provision considered in that docket did not contain the language, contained in the contract before us. This contract, on its face, limits Niagara Mohawk's obligation to transmit power to those PASNY preference customers which were operating electric distribution systems as of February 10, 1961, the date of execution of NS–1. This is demonstrated by the underscored language on p. 4, *infra*. No extrinsic evidence is needed to interpret the meaning of that unambiguous language. We find, therefore, that Niagara Mohawk did not undertake an obligation to wheel for Massena or any future PASNY preference customers who might have begun operation of their electric systems after February 10, 1961.

We, therefore, grant Massena's request for summary disposition of the contractual interpretation question but do not find that such interpretation requires Niagara Mohawk to provide transmission service to the town.[6] This determination, however, does not dispose of the motion before us since Massena has advanced additional grounds for the requested relief which cannot be disposed of summarily.

First, in support of its position that the disputed provision should be removed as unreasonable on its face, Massena relies on the Commission's recent decision in *Village of Penn Yan, New*

[5] The contract at issue, Fitzpatrick UD–5, provided, in relevant part:

"*Transmission Service by Customer.* Customer [Niagara Mohawk] hereby agrees to transmit power for Authority [PASNY] over its transmission system to high load factor manufacturers and priority customers supplied by Authority with power from the Fitzpatrick plant, where the customers can be supplied from the system of the Customer as follows: . . . .(b) For all priority customers and for high load factor manufacturers located beyond 30 miles of the Niagara Falls switch-yard: the transmission to be from the point of delivery to such customers, for which service Customers shall be compensated in transmission fees and allowance for losses in transmission at the rates in effect under Part Five of Contract NS–1."

[6] On July 30, 1979, the United States District Court for the District of Columbia entered an order requiring this Commission to interpret the wheeling provisions of the PASNY-Niagara-Mohawk contract by the close of business August 1, 1979. Memorandum and Order, *Town of Massena* v. *Federal Energy Regulatory Commission*, D.C. Civ. Action No. 79–1933. This matter, however, was scheduled for consideration on the Commission's agenda prior to the entry of the Court's order. The Commission has, therefore, considered it in due course. Although the result we have reached complies with the Court's order, we emphasize that it is the product of the independent assessment of the issues which each Commissioner is bound to make. Had the Commission concluded that the contract could not be interpreted without a hearing on extrinsic evidence relating to its consideration, we would have directed the Commission's Solicitor to apply to the district or appellate courts for appropriate modifications in the mandatory injunction, so that we could order procedures appropriate in our judgment to resolution of the contract dispute. See *FPC* v. *Transcontinental Gas Pipe Line Corp.*, 426 U.S. 326, 333 (1976); *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 543–545 (1978).

York, Docket No. EL78–29 (March 28, 1979). In that case, this Commission found invalid and unenforceable a provision in a contract between PASNY and New York State Electric & Gas Company (NYSEG), and a provision in a contract between the Village of Penn Yan and NYSEG, both of which restricted the sale of PASNY power to the territorial limits of preference customers as of the date of the contracts—there February 10, 1961. The contractual provision at issue in this case is different from the provision considered in *Penn Yan*. In *Penn Yan*, the utility had undertaken an obligation, albeit limited, to wheel to Penn Yan. Here no such obligation is established on the face of the contract.[7] In addition, the underlying pleadings in Penn Yan indicated the purpose of such provisions was to protect the utiltity from competition for the retail customers. No such facts have been established here. Niagara Mohawk has alleged that a legitimate purpose relating to the preservation "of the integrity and safety of its electrical system" is served by such a provision.

Second, Massena claims that continued denial by Niagara Mohawk of service to Massena while offering the same service to preference customers who come within the time limitations of the contract as well as one customer that does not—i.e., the city of Sherrill—is discriminatory on its face and therefore unlawful. It is true that limitations on transmission service may be discriminatory and hence unlawful under the Federal Power Act. However, where a utility makes a voluntary decision to provide transmission service to one customer, the failure to offer the same service another is not *per se* unduly discriminatory. *Richmond Power & Light of the City of Richmond, Indiana v. FERC*, 574 F.2d 610 (D.C. Cir. 1978). The court did leave open the possibility that a utility might be ordered to provide transmission service if undue discrimination or anti-competitive effect were established. *Richmond, supra*, 574 F.2d at 623–624. Here, Massena alleges such unlawful discrimination but again, Niagara Mohawk argues that its willingness to serve the City of Sherrill and not Massena is a result of engineering rather than anticompetitive concerns:

> The Sherrill system presented no major problems or complications such as exist under Massena's plan. Niagara Mohawk agreed to wheel to the City of Sherrill under the NS–1 contract not because it had an obligation to do so, but because "borderline arrangements" and other complications which would impair the safety and integrity of the Niagara Mohawk system, as are present herein, were not involved in serving Sherrill. (Answer at 20)

With regard to these allegations,—i.e., that the provision is anticompetitive and unduly discriminatory on its face—the provision at issue *is* restrictive and may be unduly discriminatory or unreasonably anticompetitive. In addition we note the lack of any apparent connection between the vague justification profferred by Niagara Mohawk and the broad restriction in NS–1. Accordingly, we direct Niagara Mohawk to show cause why the disputed provision in NS–1 is not in violation of Section 205 of the Federal Power Act. Niagara Mohawk will respond at a prehearing conference to occur within 10 days of the issuance of this order.

2. *Request for Relief Under the Niagara Redevelopment Act and Niagara Project License.*

Massena has also claimed that the relief requested should be granted pursuant to the Niagara Redevelopment Act [8] and Part I of the Federal Power Act, under which the Commission licensed the Niagara Project.[9] Article 23 of the License provides for transmission of PASNY power, pursuant to the requirement in 16 USC 836(b)(4):

> The Licensee shall, if available on reasonable terms and conditions, acquire by purchase or other agreement, the ownership or use of, or if unable to do so, construct such transmission lines as may be necessary to make the power and energy generated at the project available in wholesale quantities for sale on fair and reasonable terms and conditions to privately owned companies, to the preference customers enumerated in Article 20 and to the neighboring States in accordance with Article 21.

The Act and the License, then, place upon PASNY an *affirmative* obligation to its customers to provide transmission service either by arranging private transmission or, failing that, to erect its own transmission lines. PASNY, in fact, "is fully aware of its statutory and license obligations to arrange for delivery of power to its Niagara Project customers." (PASNY Answer at 3). PASNY claims, however, that it need not arrange for such wheeling "until the Town's condemnation proceeding and/or negotiations with Mohawk reach a stage which indicates the proposed municipal utility can be established by a definite date." [10] (Answer at 4).

It appears undisputed then, that PASNY has some obligation to provide transmission to its preference customer. The mere existence of the obligation, however, does not support summary action. The pleadings submitted thus far provide no factual record which describes the steps PASNY is taking to comply with its statutory and license obligations. If PASNY supports Niagara Mohawk's contention that legitimate engineering justifications exist for its refusal to wheel, it should indicate what steps it is taking to construct transmission lines to serve Massena. If PASNY does not support Niagara Mohawk's proferred justification, it should, in order to fulfill its license obligation to acquire transmission service for preference customers on reasonable terms, be an active party in this proceeding supporting the relief requested by Massena.

Finally, we note that in addition to PASNY's interest in this proceeding as it relates to fulfillment of its license obligation to provide transmission service, PASNY has further interest in this proceeding. That additional interest relates to PASNY's potential liability under the license condition imposed pursuant to Section 10(h) of Part I of the Federal Power Act. That section provides, essentially, that licensees such as PASNY may not enter into anticompetitive arrangements in transmitting or selling electric energy.[11] If the provision is found to be anticompetitive, then, PASNY would be in violation of the license condition described in Section 10(h).

Having determined that PASNY has an affirmative obligation to provide transmission service to Massena and that PASNY may be in violation of Section 10(h) of the Federal Power Act,

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[7] We note that while Niagara Mohawk has not obligated itself to wheel to *Massena* in NS–1, it has undertaken an obligation to wheel for *PASNY* and its customers as of the date of the contract. The disputed language does contain a limitation on the transmission service which Niagara Mohawk has undertaken to provide to PASNY.

[8] 16 U.S.C. § 836 *et seq.* (1976)

[9] Order Granting License, Docket No. Project 2216 (January 30, 1958).

[10] Since the filing PASNY's Answer to Massena's 1976 complaint, events have occurred which may affect PASNY's duty to pursue its obligation to provide wheeling service to Massena. First, PASNY granted Massena an allocation of Niagara project power, which was approved by the Governor of New York on August 27, 1978. Second, on February 22, 1979 a New York state court in St. Lawrence County granted Massena the right to possess and operate the system. The County Court concluded, however, that it lacked jurisdiction to order Niagara Mohawk to transmit PASNY power to Massena.

Because PASNY has not filed an answer to Massena's renewed motion, we do not know how these intervening events affect PASNY's position with regard to its statutory and license obligations.

[11] Section 10(h) provides, in pertinent part that all licenses issued under Part I of the Act shall be on the condition:

"That combinations, agreements, arrangements, or understandings, express or implied, to limit the output of electrical energy, to restrain trade, or to fix, maintain, or increase prices for electrical energy or service are hereby prohibited. (16 U.S.C. 803 (h)).

we direct PASNY to show cause why 1) it has not fulfilled its obligation under Article 23 of the Niagara Project License to provide transmission service to Massena and 2) it is not in violation of the license condition imposed by Section 10(h) of the Federal Power Act which prohibits it from entering into anticompetive arrangements in transmitting or selling project power. PASNY shall respond at a prehearing conference to occur within 10 days of the issuance of this order.

The Town of Massena's claims regarding Niagara Mohawk's alleged discriminatory and anticompetitive activity and PASNY's statutory and license obligations are serious and warrant close Commission scrutiny. However, given the potential need for a factual record, the Commission will not grant summary relief on these issues. Recognizing the potential anticompetitive effect of Niagara Mohawk's refusal to provide wheeling service and the potential threat to continue electric service in the Town of Massena, an expedite hearing should be convened to decide any factual issues that may be presented by the responses of Niagara Mohawk and PASNY as described herein. We will leave the procedures for most effectively and fairly expediting this proceeding to the sound discretion of the Presiding Judge. Every effort should be made to resolve any outstanding issues so that the Commission may issue a final decision in this proceeding as soon as possible.

The Commission orders

(A) Massena's request for summary relief contained in its August 11, 1976 complaint and April 9, 1979 motion for declaratory judgment is hereby granted in part and denied in part.

(B) Pursuant to the authority contained in and subject to the jurisdiction conference upon the Commission by subsection 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and Regulations under the Federal Power Act (18 C.F.R. Ch. 1 (1978)), a public hearing shall be held to consider factual issues concerning the justness and reasonableness of the disputed provision contained in Article 9 of Niagara Contract NS–1.

(C) The Town of Massena, Niagara Mohawk Power Corporation and the Power Authority of the State of New York are hereby made participants in this proceeding.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose, shall convene a conference in this proceeding, to be held within 10 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426. The conference shall be for the purpose of clarifying the positions of the parties and delineating the issues to be litigated. In addition, at such conference the Presiding Judge shall establish any procedural dates necessary for the expedited hearing ordered herein.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–25172 Filed 8–14–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP79–65]

U.S. Geological Survey (New Mexico), Section 108 NGPA Determination, Southland Royalty Co., Hagwood #5 JD79–9371; Preliminary Finding

Issued: August 3, 1979.

On June 19, 1979, the United States Geological Survey at Albuquerque, New Mexico submitted to the Commission a notice of determination that the Southland Royalty Co. Hagwood #5 well (JD79–9371) qualifies as a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA).

Section 108(b)(1) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf per production day during such 90 day period. Section 108(b)(3) defines "production day" as (1) any day during which natural gas is produced; and (2) any day during which natural gas production is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency.

The records submitted with the determination for the above-listed well indicate that the well produced no natural gas during the 90-day production period upon which the application was based. There was no finding that the well was shut in due to State law or practice. Accordingly, the 90-day production period upon which the application was based contained no production days. Since section 108(b) requires that a well produce natural gas at a rate not exceeding an average of 60 Mcf per production day, a well's rate of production cannot be calculated where the 90-day production period contains no production days.

On the basis of the record submitted with this determination, the Commission hereby makes a preliminary finding, pursuant to 18 CFR § 275.202(a)(1)(i), that the determination submitted by the U.S. Geological Survey (New Mexico) that the above-listed well qualifies as a section 108 stripper well, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–25173 Filed 8–14–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP79–70]

U.S. Geological Survey, Section 108 NGPA Determination, Trans Delta Oil & Gas Co., Inc., Melik Federal No. 1 Well JD79–9723; Preliminary Finding

Issued: August 3, 1979.

On June 21, 1979, the United States Geological Survey, Albuquerque, New Mexico, (USGS) submitted to the Commission a notice of determination, which States that the Trans Delta Oil & Gas Co., Inc. Melik Federal No. 1 well qualifies as a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published the notice of the USGS on July 18, 1979.

Section 108(b)(1) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf per production day during a 90-day production period. Section 108(b)(3) defines "production day" as (1) any day during which natural gas is produced; and (2) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency.

The record submitted with the determination for the subject well indicates that such well produced no natural gas during the entire 90-day production period upon which the application was based. Accordingly, the 90-day production period upon which this application is based contains no production days. Since section 108(b) of the NGPA requires that a well produce natural gas at a rate not exceeding an average of 60 Mcf *per production day*, a well's rate of production cannot be

calculated where the 90-day production period contains no production days.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to 18 C.F.R. § 275.202(a)(1)(i) that the determination by the USGS—that the Trans Delta Oil & Gas Co., Inc. Melik Federal No. 1 well qualifies as a stripper well under section 108 of the NGPA—is not supported by substantial evidence in the record on which the determination is made.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-25174 Filed 8-14-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-1296-6; PP 8G2061/T218]

Pesticide Programs; Establishment of Temporary Tolerances; *O*-Ethyl *O*-[4-(methylthio)phenyl] *S*-propyl phosphorodithioate

Mobay Chemical Corp., Chemagro Agricultural Div., P.O. Box 4913, Kansas City, MO 64120, submitted a pesticide petition (PP 8G2061) to the Environmental Protection Agency (EPA). This petition requested that temporary tolerances be established for combined residues of the insecticide *O*-ethyl *O*-[4-(methylthio)phenyl] *S*-propyl phosphorodithioate) and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities tomatoes at 10 parts per million (ppm), corn grain at 0.3 ppm, and fresh corn including sweet corn (kernels plus cob with husk removed) at 1.5 ppm. These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit (3125-EUP-155) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Mobay Chemical Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire July 25, 1980. Residues not in excess of 10 ppm remaining in or on tomatoes, 0.3 ppm remaining in or on corn grain, and 1.5 ppm remaining in or on fresh corn including sweet corn (kernels plus cob with husk removed) after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Frank Sanders, Product Manager 12, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M St. SW., Washington, D.C. 20460 (202/426-2635).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].)

Dated: August 8, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-25222 Filed 8-14-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1297-6; PP 8G2113/T216]

Pesticide Programs; Establishment of a Temporary Tolerance; Fluridone

Elanco Products Co., P.O. Box 1750, Indianapolis, IN 46206, submitted a pesticide petition (PP 8G2113) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the herbicide fluridone (1-methyl-3-phenyl-5-[3-(trifluoro-methyl)phenyl]-4(1*H*)-pyridinone) in or on cottonseed at 0.05 part per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit (1471-EUP-64) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Elanco Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires July 16, 1980. Residues not in excess of 0.05 ppm remaining in or on cottonseed after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Ms. Willa Garner, Product Manager 23, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M St., SW, Washington, DC 20460 (202/755-1397).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346(j)].

Dated: August 8, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-25223 Filed 8-14-79; 8:45 am]

BILLING CODE 6560-01-M

[PF-144, FRL 1296-4]

Pesticide Programs; Filing of Pesticide/Food Additive Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 9F2232. Shell Oil Co., Suite 200, 1025 Connecticut Ave., NW., Washington, DC 20026. Proposes that 40 CFR 180.307 be amended by establishing a tolerance for residues of the herbicide 2-[[4-chloro-6-(ethylamino)-*s*-triazin-2-yl]amino]-2-methylpropionitrile in or on the raw agricultural commodity soybeans at 0.1 part per million (ppm). The proposed analytical method for determining residues is by gas liquid chromatography with an electron capture detector.

FAP 9H5230. Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105. Proposes that 21 CFR 193 be amended by permitting the residues of the herbicide oxyfluorfen (2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-trifluromethyl) benzene and its metabolites containing the diphenyl ether linkage in refined soybean oil at 0.25 ppm.

Interested persons are invited to submit written comments on these petitions. Comments may be submitted, and inquires directed, to Product Manager (PM) 25, Room E–359, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460, telephone number 202/755–2196. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's Office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: August 8, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79–25225 Filed 8–14–79; 8:45 am]

BILLING CODE 6560–01–M

[OPP–250020, FRL 1296–3]

Pesticide Programs; Special Packaging of Pesticides

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

ACTION: Notice of Availability of list of registrants.

SUMMARY: A list is being made available of registrants who may have pesticide products that will be affected by the regulations for the special packaging of pesticides. Also the text is being made available of the Memorandum of Understanding between the EPA and the U.S. Consumer Product Safety Commission regarding the areas of cooperation in the special packaging of pesticides.

DATE: This list will be available August 15, 1979.

ADDRESS: Requests for the list should be addressed to Ms. D. Jean Jenkins, Special Packaging Coordinator, (TS–767), Office of Pesticide Programs, EPA, 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. D. Jean Jenkins at the above address (202/755–8930).

SUPPLEMENTARY INFORMATION: Final regulations (40 CFR 162.16) for the use of child-resistant packaging for pesticides were published in the **Federal Register** of March 9, 1979 (44 FR 13019). The Agency has developed a listing of registrants and products which may potentially be subject to these regulations. The listing was drawn from computer records of products in Toxicity Categories I and II, with uses which might be considered "residential" in nature. Products classified for Restricted Use were omitted insofar as possible. A previous listing made available in January 1978 is now out of date.

The listing is not intended to be a comprehensive list. Certain products in Toxicity Category III also may be subject to child-resistant packaging because of the oral LD_{50} criteria for special packaging. However, such products have not been included in listings because computer records do not differentiate between the various routes of exposure and the specific test results within each category. This differentiation is necessary to render a listing of Toxicity Category III products meaningful in terms of child-resistant packaging. The listing also does not attempt to distinguish between products which may be intended for commercial use only because the product labels from which the records were drawn do not make that distinction in most cases. Review of individual products may result in additions or deletions.

The listing represents the Agency's best attempt to identify pesticide products potentially subject to child-resistant packaging on the basis of existing computer-accessible records.

The following listings are available:

1. "Pesticide Products Potentially Subject to Child-Resistant Packaging"—a listing of *registration numbers* of products. Names and addresses of registrants are not given. (61 pages, 9,267 entries)

2. "Registrants of Products Potentially Subject to Child-Resistant Packaging Requirements"—a listing of *names and addresses of registrants* of the products in the first list. (100 pages, 2,122 entries).

Either or both lists may be requested from Ms. D. Jean Jenkins, Special Packaging Coordinator (TS–767), EPA, 401 M Street, SW, Washington, DC 20460. The text of the "Memorandum of Understanding" between the EPA and the U.S. Consumer Product Safety Commission regarding areas of cooperation in the special packaging of pesticides is provided in its entirety below. The effective date of this "Memorandum of Understanding" is July 9, 1979.

Dated: August 8, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Memorandum of Understanding

Memorandum of Understanding Between the U.S. Environmental Protection Agency and the U.S. Consumer Product Safety Commission

Purpose

The purpose of this Memorandum of Understanding is to set forth the areas of cooperation of the respective signatories in regard to the special packaging of pesticides.

Legal Background

A. *CPSE Responsibilities*

The Consumer Product Safety Commission (CPSC) is charged with the enforcement of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051, et seq.), which directs the Commission to protect the public from unreasonable risks of injury associated with consumer products. In order to accomplish this purpose, the Commission is authorized to promulgate consumer product safety standards for the performance, composition, contents, design, construction, finish, or packaging of consumer products, to establish requirements for warnings and instructions, and to ban certain hazardous products when the public cannot be protected adequately by feasible consumer product safety standards.

Section 30(a) of the CPSA gives the Commission responsibility for administering the Poison Prevention Packaging Act of 1970 (51 U.S.C. 1471), which was enacted by Congress with the aim of reducing the incidence of accidental poisoning among children under five years of age. This Act originally gave the Secretary of Health, Education, and Welfare authority (now transferred to the Commission) to set standards for special packaging of substances customarily produced or distributed for sale for consumption or use, or customarily stored, by individuals in or about the household. Those substances covered by the Act include hazardous substances as defined in the Federal Hazardous Substances Act (15 U.S.C. 1261(f)); foods, drugs, and cosmetics as defined in Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and substances intended for use as a fuel when stored in a portable container and used in the heating, cooking, or refrigeration system of a house. Pesticides as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135 et seq.), were also included until the authority over pesticides was removed by the Consumer Product Safety Commission

Improvements Act of 1976 (P.L. 94–284, 90 Stat. 503). Thus the Administrator of EPA has sole authority over the special packaging of pesticides.

B. *EPA Responsibilites*

The Environmental Protection Agency (EPA) is responsible for enforcing the Federal Insecticide, fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 135, et seq.). Under this Act as amended, EPA has the authority to protect man and the environment from the adverse effects of pesticides by ensuring that pesticide products are applied, stored, and disposed of in a manner consistent with the product registration. As part of this mandate, the Administrator of EPA is authorized to establish standards with respect to the package, container, or wrapper in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by the Act (Section 25(c)(3), FIFRA, as amended). The standards established by EPA must be consistent with those established under the authority of the Poison Prevention Packaging Act of 1970 (PPPA). EPA has the authority to enforce special packaging standards for pesticides under FIFRA Section 12(a)(1)(E) which makes it unlawful to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver any pesticide that is misbranded. Misbranded is defined in Section 2(q)(1)(B) of FIFRA to include being contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 25(c)(3).

Objectives

EPA and CPSC have certain related objectives in carrying out their respective statutory authorities. As shown above, Congress has mandated that standards issued by EPA with regard to special packaging for pesticide products be consistent with the relevant standards issued by CPSC. On November 21, 1974, the Commissioners of the CPSC directed the Commission staff to cooperate with EPA in the development of the EPA regulation concerning special packaging for pesticides.

The EPA and CPSC believe it is in the public interest to describe, in this Memorandum of Understanding, the working arrangements they have adopted to discharge, as effectively as possible, their responsibilities. In addition, this Memorandum of Understanding will further the intent of Congress, expressed in section 22(b) of FIFRA as amended, that EPA cooperate with other Federal agencies in carrying out the provisions of FIFRA and in securing uniformity of regulations. The Memorandum of Understanding will also further the intent of Congress, expressed in section 29(c) of the CPSA, that the Commission and other agencies administering programs related to product safety cooperate and consult to the maximum extent practicable to ensure fully coordinated efforts.

Terms of Agreement

The Environmental Protection Agency will:

(1) Promulgate regulations requiring special packaging for pesticide products consistent with those established by CPSC under the Poison Prevention Packaging Act. The EPA regulations will be no less comprehensive than the pesticide regulation proposed by the Food and Drug Administration (37 FR 18629) and/or any existing standard promulgated under the Poison Prevention Packaging Act covering substances used as pesticides or in the formulation of pesticides. EPA will notify CPSC prior to promulgating standards requiring the special packaging of pesticides and any substantive amendments thereto.

(2) Supply the CPSC with any evidence it obtains concerning the ineffectiveness of a safety package for a pesticide product.

(3) Investigate reports received from CPSC which give EPA probable cause to suspect that a violation of FIFRA has occurred and, where deemed warranted, based on evidence disclosed by either CPSC or EPA investigation, or both, initiate appropriate regulatory action under FIFRA, as amended.

(4) Transfer the appropriate amount of funds to the credit of the Consumer Product Safety Commission as reimbursement for expenses incurred by CPSC in carrying out the obligations under this agreement to test child resistant packaging.

(5) Immediately notify CPSC when an EPA investigation reveals that a possible violation of PPPA has occurred and provide CPSC with the available information necessary to support an investigation by CPSC.

(6) Assign EPA staff to CPSC for training in special packaging evaluation and testing for a designated period of time to be determined later.

The Consumer Product Safety Commission will: (1) Supply the EPA with technical assistance when EPA desires to evaluate and/or test the effectiveness of a child resistant package previously accepted in connection with the registration of a pesticide product and training of EPA staff to aid EPA in evaluating the technical feasibility, practicability, and appropriateness of special packaging, and its availability. The testing of child-resistant packaging is contingent on the implementation of paragraphs (4) and (6) of EPA's obligations under this agreement.

(2) Advise EPA of any provision CPSC plans to propose which could affect the EPA child protection packaging program before CPSC proposal by publication in the **Federal Register**. Such provisions would include, but are not limited to, amendments to the protocols for testing the effectiveness of special packaging (16 CFR 1700.20); the addition of substances, also used in the formulation of pesticides, to the class of substances which require special packaging (16 CFR 1700.14); and a change in the effectiveness specifications required for special packaging (16 CFR 1700.15(b)).

(3) Immediately notify EPA when a CPSC investigation under the acts administered and enforced by the CPSC reveals that a possible violation of FIFRA has occurred. The CPSC will provide EPA with the available information necessary to support an investigation by EPA.

It is mutually agreed that: (1) Each agency will maintain a close working relationship with the other including an exchange of information received from any accident reporting system, before and after promulgation of the EPA regulation covering pesticides.

(2) To the extent practical, to avoid duplication of effort, the agencies will coordinate investigations as they relate to the Poison Prevention Packaging Act.

(3) Each agency will designate to the other a headquarters contact point to which communications dealing with this agreement or matters affected thereby may be referred for attention.

(4) Requests under the Freedom of Information Act (5 U.S.C. 552) for the disclosure of information submitted pursuant to this agreement by one agency to the other such as results of agency investigations and industry protocol testing shall be treated in accordance with the policies and procedures of the agency receiving the request.

(5) This Memorandum of Understanding is subject to renegotiation, should the obligations imposed by it exceed the capabilities of the staff of either agency.

(6) Nothing in this Memorandum of Understanding precludes entering into separate agreements setting forth procedures for special programs which can be handled more efficiently and expeditiously by such special agreement.

Liaison Officers

For CPSC—Name: Georg S. Maisel, Director, Division of Safety Packaging and Scientific Coordination. Address: 5401 Westbard Avenue, Bethesda, Maryland 20207. Phone: (301) 492–6477.

For EPA—Name: Jean Jenkins, Special Packaging Coordinator. Address: 401 "M" St. S.W. (TS–767), Washington, D.C. 20460. Phone: (202) 755–8930.

Period of Performance

This Memorandum of Understanding, when accepted by both parties, shall continue in effect unless modified by mutual written consent of both parties or terminated by either party upon thirty (30) days advance written notice to the other.

Authority

This agreement is entered into under the following authority:

For CPSC: (Section 27(g), 29(c) of the Consumer Product Safety Act approved October 27, 1972, 15 U.S.C. 2076(g), 2078(c).)

For EPA: (Section 25(c)(3) of the Federal Insecticide Fungicide and Rodenticide Act, approved October 21, 1972, 7 U.S.C. 136.)

For the Environmental Protection Agency.
Dated: July 9, 1979.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

For the Consumer Product Safety Commission.

Dated: January 23, 1979.

Susan B. King,

Chairman, Consumer Product Safety Commission.

Effective Date: This agreement becomes effective when signed by Administrator, EPA and Chairman, CPSC.

[FR Doc. 79-25226 Filed 8-14-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-30030; FRL 1296-5]

Pesticide Programs; Elimination of Authorization for Confidential Formula Statement

Under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, an applicant for the registration of a pesticide is required to identify the ingredients of his proposed product. Applications are often accompanied by requests that the Environmental Protection Agency (EPA) refer to confidential information, such as a formula statement, submitted by some other person. An applicant who does not know the composition of a particular ingredient because it is supplied by another manufacturer has in the past been required to obtain authorization for the Agency to refer to confidential formula information in Agency files. Without such authorization, EPA has been prohibited by FIFRA Section 3(c)(1)(D) from using the confidential formula statement in support of the applicant's registration.

The 1978 Federal Pesticide Act amended FIFRA to eliminate the prohibition against unconsented use by the Agency of confidential information. Such information is still protected from disclosure outside the Agency to the extent provided by section 10 of FIFRA.

Therefore, effective August 15, 1979, the Agency will no longer require an applicant for a pesticide registration to submit authorization letters relating to confidential information in our files.

Dated: August 8, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-25224 Filed 8-14-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL RESERVE SYSTEM

Dublin Bancshares, Inc.; Formation of Bank Holding Company

Dublin Bancshares, Inc., Dublin, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of The Dublin National Bank, Dublin, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 9, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-25121 Filed 8-14-79; 8:45 am]

BILLING CODE 6210-01-M

First Yale Bancorporation, Inc.; Formation of Bank Holding Company

First Yale Bancorporation, Inc., Yale, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First Bank and Trust Company, Yale Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 5, 1979. Any comment on an application that rquests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 9, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-25122 Filed 8-14-79; 8:45 am]

BILLING CODE 6210-01-M

Reunion Bancshares, Inc.; Formation of Bank Holding Company

Reunion Bancshares, Inc., Dallas, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Reunion Bank, Dallas, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 8, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-25123 Filed 8-14-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

Health Maintenance Organizations; March List of Qualified Organizations

AGENCY: Public Health Service, HEW.

ACTION: Notice, March list of qualified health maintenance organizations.

SUMMARY: This list gives the names, addresses, service areas, and date of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). Following the list is a zip code correction and a service area revision of two previously qualified HMOs.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require

that a list and description of all newly qualified HMOs be published on a monthly basis in the **Federal Register.** The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300 e–9(d)):

Qualified Health Maintenance Organizations

Name, Address, Service Area, and Date of Qualifications

(Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. West River HMO, Inc., (Medical Group Model, see Section 1310 (b)(1) of the Public Health Service Act), Box 671, Hettinger, North Dakota 58639. Service Area: Cities and zip codes in the following counties of North Dakota:

Adams County	
Bucyrus	58624
Haynes	58637
Hettinger	58639
Lemmon, South Dakota (Mailing Address)	57638
Reeder	58649
Bowman County	
Bowman	58623
Gascoyne	58629
Rhame	58651
Scranton	58653
Grant County	
Carson	58529
Elgin	58533
Lark	58550
Leith	58551
New Leipzig	58562
Raleigh	58564
Hettinger County	
Bentley	58522
Burt	58527
Mott	58646
New England	58647
Regent	58650
Slope County	
Amidon	58620
Marmarth	58643

Date of Qualification: March 19, 1979.

2. Eastern Pennsylvania HMO, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), Suite 1110, 1503 North Cedar Crest Boulevard, Allentown, Pennsylvania 18104. Service area: Northampton and Lehigh Counties, Pennsylvania. Date of qualification: February 9, 1979. (Achieved preoperational qualification February 9, 1979).

3. Family Health Plan Cooperative (Staff Model, see Section 1310(b)(1) of the Public Health Service Act) 6901 West Edgerton Avenue, Milwaukee, Wisconsin 53220. Service area: That portion of Milwaukee County, bounded on the north by Wisconsin Avenue, on the east by Lake Michigan, on the west by 124th Street, and on the south by County Line Road in Wisconsin. Date of qualification: February 28, 1979. (Achieved preoperational qualification on February 22, 1979).

4. Lifeguard, Incorporated, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 1715 South Bascom Avenue, Bascom Financial Center, Campbell, California 95008. Service area: Santa Clara County, California. Date of qualification: February 14, 1979. (Achieved preoperational qualfication on February 12, 1979).

5. Health Service Plan of Pennsylvania (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 1401 Arch Street, Philadelphia, Pennsylvania 19102. Service area: Zip codes as follows:

New Jersey					
08002	08003	08007	08008	08009	08012
08021	08029	08030	08033	08034	08035
08043	08046	08049	08052	08057	08065
08066	08075	08078	08083	08084	08091
08093	08101	08102	08103	08104	08105
08106	08107	08108	08109	08110	
Pennsylvania					
18914	18925	18940	18954	18966	18974
18976	19001	19002	19003	19004	19006
19007	19008	19009	19010	19012	19013
19014	19015	19016	19017	19018	19020
19022	19023	19025	19026	19028	19029
19030	19031	19032	19033	19034	19035
19036	19037	19038	19039	19040	19041
19043	19044	19046	19047	19050	19052
19054	19055	19056	19057	19058	19060
19061	19063	19064	19065	19066	19067
19070	19072	19073	19074	19075	19076
19077	19078	19079	19081	19082	19083
19084	19085	19086	19087	19089	19090
19094	19095	19096	19101	19102	19103
19104	19105	19106	19107	19108	19109
19110	19111	19112	19113	19114	19115
19116	19117	19118	19119	19120	19121
19122	19123	19124	19125	19126	19127
19128	19129	19130	19131	19132	19133
19134	19135	19136	19137	19138	19139
19140	19141	19142	19143	19144	19145
19146	19147	19148	19149	19150	19151
19152	19153	19154	19174	19301	19312
19317	19319	19331	19333	19335	19341
19342	19345	19355	19357	19366	19373
19377	19380	19395	19401	19403	19405
19406	19407	19408	19409	19422	19425
19426	19428	19432	19444	19452	19454
19460	19462	19468	19477	19479	19481
19486					

Date of Qualification: May 4, 1978 (Transitionally qualified: April 26, 1976).

This Plan was erroneously listed as an opportunity qualified HMO in 43 FR 49854, October 25, 1978 when a change in its service area was published.

(Transitionally Qualified Health Maintenance Organization: 42 CFR 110.603(b))

1. Physicians Association of Clackamas County, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 18600 S.E. McLoughlin Boulevard, P.O. Box 286, Gladstone, Oregon 97027. Service area: Clackamas County, Oregon. Date of Qualification: March 29, 1979.

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

1. Bay Pacific Health Plan (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 3080 La Selva, San Mateo, California 94403. Service area: Zip codes as follows in San Mateo County, California:

San Mateo County					
94002	94005	94010	94014	94015	94016
94017	94018	94019	94020	94025	94030
94037	94038	94044	94061	94062	94063
94064	94065	94066	94070	94080	94128
94401	94402	94403	94404		

Date of Qualification: March 28, 1979.

Service Area Revision

A service area listed in the monthly list of qualified HMOs and published on May 12, 1978 in the **Federal Register** (43 CFR 20560) is revised as follows (effective March 27, 1979):

1. Capitol Health Care, Inc., 960 Broadway, N.E., Suite One, Salem, Oregon 97301. Service area:

Change to: Benton, Linn, Marion and Polk Counties, Oregon.

Service Area Correction

A zip code listed in the January list of qualified HMOs, published on April 24, 1979, in the **Federal Register** (44 FR 24240) is corrected as follows:

1. Health Maintenance Network of Southern California d/b/a Health Net, P.O. Box 9103, Van Nuys, California 91409.

Zip code 02704 should read 92704.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3rd Floor, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified HMOs should be sent to the same office.

Dated: August 3, 1979.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 79-25103 Filed 8-14-79; 8:45 am]

BILLING CODE 4110-85-M

Office of Education

Statement of Organization, Functions, and Delegations of Authority

Part EE (Office of Education), Section EE.10 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is amended to reflect the addition of a Division of Migrant Education in the Bureau of Elementary and Secondary Education. The

Education Amendments of 1978 added new responsibilities to migrant education program administration, including a discretionary grant component.

The specific changes are:

(1) The statement for the Division of Education for the Disadvantaged, published at 39 FR 14738 (4/26/74) is replaced by the following:

Administers a program providing payment to State agencies for the education of educationally deprived children in low-income areas; and for institutionalized, neglected, delinquent, and Indian children.

(2) The following title and statement are to be inserted immediately after the title and statement for the Division of Education for the Disadvantaged:

Division of Migrant Education (EESE), Administers Title I, Sections 141 and 143, of the Elementary and Secondary Education Act of 1965 (P.L. 89–10), as amended by various acts, including the Education Amendments of 1978. Administers a program providing financial assistance to State educational agencies for the support of State educational agency programs designed to meet the special educational needs of migratory children of migratory agriculture workers or migratory fishermen. Improves intrastate and interstate coordination of programs and projects. Ensures that States fully utilize the migrant student record transfer system, which provides for the transfer of the most current academic and health information available for the children served.

Dated: July 28, 1979.

Frederick M. Bohen,

Assistant Secretary for Management and Budget.

[FR Doc. 79–25208 Filed 8–14–79; 8:45 am]

BILLING CODE 4110–02–M

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority; Correction

In the FR Document 79–17325, appearing on pages 32292 and 32293 in the **Federal Register** on June 5, 1979, make the following changes in the third column:

1. Delete the word "Administrative" from lines 1, 4 and 6 at the top of page 32292.

2. Delete the word "Administrative" from items 4 and 6 on page 32293.

The word "Administrative" was inadvertently included in the title of this office. The title should read "Office of Management."

Dated: August 7, 1979.

L. David Taylor,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 79–25207 Filed 8–14–79; 8:45 am]

BILLING CODE 4110–88–M

Office of the Secretary

Medicaid Fraud Control Units; Delegations of Authority

Sections 1903(a)(6), 1903(b)(3), and 1903(q) of the Social Security Act as amended provide for the certification, recertification, and funding of State medicaid fraud control units. The Secretary has decided that all Departmental responsibilities for these activities should be transferred to the Inspector General, rather than remain with the Administrator, Health Care Financing Administration. Accordingly, this delegation of authorities transfers the authority and responsibilities for these activities to the Inspector General.

Notice is hereby given of delegations by the Secretary of Health, Education, and Welfare to the Inspector General, with authority to redelegate, of the following authorities under Section 1903, "Payment to States," of Title XIX, "Grants to States for Medical Assistance Programs," of the Social Security Act, as amended by Section 17, "Funding of State Medicaid Fraud Control Units," of Public Law 95–142, Medicare-Medicaid Anti-Fraud and Abuse Amendments.

Authority under Section 1903(a)(6) [42 USC 1396b(a)(6)], Section 1903(b)(3) [42 USC 1396b(b)(3)], and Section 1903(q) [42 USC 1396b(q)], as amended by Public Law 95–142, relative to the certification, recertification, and funding of State Medicaid fraud control units. The authority under these sections may be redelegated.

The previous delegation to the Administrator, Health Care Financing Administration, under these authorities has been rescinded. Authority to approve and promulgate regulations under these sections has been reserved by the Secretary.

The above rescission and delegation became effective on July 27, 1979.

Dated: August 6, 1979.

Frederick M. Bohen,

Assistant Secretary for Management and Budget.

[FR Doc. 79–25209 Filed 8–14–79; 8:45 am]

BILLING CODE 4110–12–M

Center for Disease Control

Forecasting Influenza Activity; Open Meeting

The following meeting will be convened by the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: September 10, 1979.
Time: 8:30 a.m. to 4:30 p.m.
Place: Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333.
Purpose: To discuss a new method of forecasting influenza activity based on mortality reports from 121 U.S. cities. This new method will utilize a time series statistical model.

Additional information may be obtained from: Stephen B. Thacker, M.D., Consolidated Surveillance and Communications Activity, Bureau of Epidemiology, Center for Disease Control, Building 1, Room 5421, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, Telephones: Commercial: 404/329–3491, FTS: 236–3491.

Dated: August 6, 1979.

William H. Foege,

Director, Center for Disease Control.

[FR Doc. 79–25334 Filed 8–14–79; 8:45 am]

BILLING CODE 4110–86–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 37980]

New Mexico; Application

August 6, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a right-of-way for two 4½-inch pipelines across the following land:

New Mexico Principal Meridian, New Mexico

T. 21 S., R. 22 E.,
Sec. 14, NE¼NW¼.

These pipelines will convey natural gas across 0.123 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management,

P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-25163 Filed 8-14-79; 8:45 am]

BILLING CODE 4310-84-M

[N-25341]

Intent To Prepare an Environmental Impact Statement on a Transmission Line Right-of-Way Application and Associated Mining Project

The Bureau of Land Management, Nevada State Office, will be preparing an Environmental Impact Statement (EIS) on the impacts of a proposed power transmission line crossing public lands and the operation of an open pit molybdenum mine on private land in south central Nevada. The proposed Sierra Pacific Power Company (SPPCO) transmission line will supply electric service to the planned Anaconda Copper Company (ACC) Nevada Moly Project located approximately 18 miles north of Tonopah, Nevada (T5N, R42E). Although the technology exists for Anaconda to generate its own power for the mine and mill operation, their preferred method is purchase of commercial power through a transmission line.

The proposal includes the construction by SPPCO of a 230 kilovolt (KV) transmission line running along the east side of the Big Smoky Valley from an existing transmission line near Austin, Nevada to Anaconda's property, a distance of approximately 90 miles. A substation will be built on Anaconda property.

The proposal also includes the development of an open pit molybdenum mine and flotation mill by Anaconda Copper Company. Under the mine's plan of operations, Anaconda will remove from the pit 80,000 metric tons per day of waste and 20,000 metric tons of ore. The mining project will require a total of 400 employees when operational. Electric power requirements for the mine, mill and plant are estimated to be 30 megawatts.

For the purposes of the EIS process, it is assumed that the transmission line will be under construction and completed during the first seven months of 1981. The mine and mill are scheduled to be fully operational by October, 1981 with the grinding mills being started up in August, 1981.

Alternatives to the proposed action that are being considered for analysis include: (1) No Action—This is defined as the existing situation. Under this alternative, BLM would not grant the right-of-way permit and the transmission line would not be constructed. Under this alternative, the mill and mining operation may be developed with electrical power generated at the mining site without the need for a transmission line. (2) Alternative Routing—Constructing the transmission line to the mining site along the westerly side of the Big Smokey Valley. (3) 120 KV Transmission Line—This alternative consists of the construction of a 120 KV transmission line from the existing 230 KV transmission line south along the eastern side of the Big Smoky Valley to the Anaconda property. A substation will be required at the tap location requiring approximately five acres of public land. Another substation will also be located on Anaconda property.

The Bureau of Land Management's scoping process for the EIS will include: (1) Identification of issues to be addressed; (2) Notifying interested individuals, groups, and agencies so that additional information concerning these issues can be obtained; and (3) Identification of persons within BLM who can answer questions about the proposed action and alternatives.

The following steps will be utilized to accomplish the scoping process:

1. A news release regarding the start of the EIS process will be issued by the BLM Nevada State Office following the publication of this notice.

2. Letters of invitation to participate in the scoping process will be mailed to all affected Federal, State, and local agencies, affected Indian tribes, and other interested persons.

3. The following individual will be available by appointment, between August 20 through September 4, 1979, to answer questions about the proposed action or to receive information concerning the EIS: Mike Walker, Environmental Coordinator, Room 3008 Federal Building, 300 Booth Street, Reno, Nevada 89059—Phone 784-5602.

4. A scoping document which further clarifies the proposal, alternatives, and significant issues being considered will be mailed to selected parties August 20, 1979. The scoping document will be available upon request from the following individuals: 1) Gene Nodine, District Manager, P.O. Box 194, Battle Mountain, Nevada 89820—Phone 635-5181; 2) Rex Rowley, Tonopah Area Manager, Bldg. M102 Military Circle, Tonopah, Nevada 89049—Phone 482-6214; and 3) Mike Walker, Environmental Coordinator (address and telephone listed previously).

5. Three public scoping meetings will be held. The first will be held September 4, 1979 in the Austin Civic Center, Austin, Nevada, at 7 p.m. The second will be held September 5, 1979 in the Tonopah Convention Center, Tonopah, Nevada, at 7 p.m. The third will be held September 6, 1979 at the BLM Carson City District Office, 1050 East Williams Street, Suite 335 in Carson City, Nevada, at 7 p.m. The purpose of these meetings will be to brief the public concerning the proposal and alternatives and to receive input on the public's perception of the scope of the issues to be addressed in the EIS.

6. A formal briefing meeting will be held between the Bureau of Land Management and the Nevada State Clearinghouse on September 6, 1979, at the BLM Carson City District Office, 1050 East Williams Street, Suite 335 in Carson City, Nevada, at 1 p.m.

7. Additional briefing meetings will be considered if requested.

Written comments will be accepted until September 20, 1979. They should be sent to the State Director (N-921), Bureau of Land Management, Room 3008 Federal Building, 300 Booth Street, Reno, Nevada 89509.

Dated: August 3, 1979.

William J. Frederick,

Acting State Director, Nevada.

[FR Doc. 79-25099 Filed 8-14-79; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Proposed Decision on Intensive Wilderness Inventory Overthrust Belt Units

This proposed decision is issued under the authority of section 603 of the Federal Land Policy and Management Act of October 21, 1976, and under the guidelines provided in step 5 of the *Wilderness Inventory Handbook* of September 27, 1978, issued by the U.S. Department of the Interior, Bureau of Land Management.

The Secretary of the Interior has directed that the wilderness inventory of all inventory units on the "Overthrust Belt" (a geologic formation with high oil and gas potential) be completed by December 31, 1979.

Wyoming has seven wilderness inventory units, as identified for intensive inventory in the **Federal Register** notice of July 10, 1979, which are located on the Overthrust Belt in western Wyoming. The intensive inventory of these seven units has been completed. This notice announces the proposed decision on these seven units plus six additional units on which the intensive inventory has been completed.

Beginning on the date of publication of this notice, and running until November 16, 1979, the public is invited to review this proposed decision and make comment to the State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

This proposed decision identified four units described below, which have been tentatively determined to possess wilderness characteristics in all or part of the unit, as set forth in section 2(c) of the 1964 Wilderness Act and are proposed as Wilderness Study Areas (WSA's). The identification of these four units as WSA's will retain them under the constraints of interim management pending final decision of their status.

Rawlins District

WY-030-303a—Prospect Mountain, 1,000 acres.

Rock Springs District (Overthrust Belt)

WY-040-110—Lake Mountain, 13,970 acres.

WY-040-221—Raymond Mountain, 33,236 acres.

WY-040-223—Coal Creek, 13,174 acres.

The following 10 wilderness inventory units, or partial units, have been tentatively determined not to possess wilderness characteristics as set forth in section 2(c) of the 1964 Wilderness Act and are, therefore, proposed to be dropped from further consideration under the wilderness review process, and released from the constraints of interim management as specified in section 603(c) of the Federal Land Policy and Management Act.

Rawlins District

WY-030-114—Copper Mountain, 8,704 acres.

WY-020-115—Lysite Badlands, 14,272 acres.

WY-030-116—Moneta Sand Dunes, 8,640 acres.

WY-030-117—Moneta Sand Dunes, 10,048 acres.

WY-030-134—Agate Flats, 22,544 acres.

WY-030-303b—Prospect Mountain, 4,700 acres.

Rock Springs District (Overthrust Belt)

WY-040-109—Cabin Creek, 7,040 acres.

WY-040-111—Beaver Creek, 5,080 acres.

WY-040-126—Red Canyon, 5,300 acres.

WY-040-222—IGO Speedway, 6,646 acres.

After the close of the comment period on November 16, 1979, all public input will be evaluated and a final decision will be issued.

A detailed synopsis of this proposal, including 1:1,000,000 scale maps showing the wilderness inventory units affected, may be obtained without cost from any of the BLM offices listed at the end of this notice. A 1:500,000 scale map plus a transparent overlay depicting the affected inventory units are available for purchase from the Wyoming State Office of BLM.

1:500,000 scale colored status map—$5.00 each copy.

Transparent overlay No. 3 dated August 1979—$4.00 each copy.

Paper copy of overlay No. 3—$2.50 each copy.

Anyone wishing to review the intensive inventory files for the above listed units may do so at the appropriate District office or at the Wyoming State Office.

To facilitate public review and comment on this proposal, the following schedule of open houses and public meetings is established:

Open Houses

Pinedale—October 3, 1979, Pinedale Area Office, Molyneux Building, Pinedale, Wyoming, 1:00-4:30 p.m., 7:00-9:00 p.m.

Kemmerer—October 4, 1979, Kemmerer Area Office, Kemmerer, Wyoming, 1:00-4:30 p.m., 7:00-9:00 p.m.

Rawlins—October 2, 1979, Rawlins District Office, 1300 Third Street, Rawlins, Wyoming, 1:00-4:00 p.m., 7:00-9:00 p.m.

Lander—October 3, 1979, Lander Resource Area Office, Jett Building, Highway 287 South, Lander, Wyoming, 1:00-4:00 p.m., 7:00-9:00 p.m.

Public Meetings

Rawlins—October 24, 1979, Rawlins District Office, 1300 Third Street, Rawlins, Wyoming, 7:00 p.m.

Lander—October 25, 1979, Lander Resource Area Office, Jett Building, Highway 287 South, Lander, Wyoming, 7:00 p.m.

Pinedale—October 30, 1979, Pinedale Resource Area, Molyneux Building, 7:00 p.m.

Kemmerer—November 1, 1979, Kemmerer Resource Area Office, Kemmerer, Wyoming, 7:00 p.m.

Those persons or organizational representatives planning to participate and make oral comment at one or more of the above public meetings are urged to also submit written comments. Those wishing to submit comments other than at the public meetings are requested to send their comments to the State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Additional information on this program is available on request from all BLM offices in Wyoming as listed below. These offices are also available for contact regarding input to the wilderness inventory.

State Director, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82001, 307-778-2220, ext. 2413.

Worland District Office, District Manager, P.O. Box 119, 1700 Robertson Avenue, Worland, WY 82401, 307-347-6151.
- Grass Creek Resource Area.[1]
- Washkie Resource Area.[1]
- Cody Resource Area, Area Manager, P.O. Box 528, Federal Building, 1131 13th, Cody, WY 82414, 307-587-2216.

Rawlins District Office, District Manager, P.O. Box 670, 1300 Third Street, Rawlins, WY 82301, 307-324-7171.
- Divide Resource Area.[1]
- Medicine Bow Resource Area.[1]
- Lander Resource Area, Area Manager, P.O. Box 589, Lander, WY 82520, 307-332-4220.

Rock Springs District Office, District Manager, P.O. Box 1869, Highway 187 N, Rock Springs, WY 82901, 307-382-5350.
- Green River Resource Area.[1]
- Salt Wells Resource Area.[1]
- Pinedale Resource Area, Area Manager, Molyneux Building, Pinedale, WY 82941, 307-467-4358.
- Kemmerer Resource Area, Area Manager, P.O. Box 632, Kemmerer, WY 83101, 307-887-3933.

Casper District Office, District Manager, 951 Union Boulevard, Casper, WY 82601, 307-265-5550, ext. 5101.
- Platte River Resource Area.[1]
- Buffalo Resource Area, Area Manager, P.O. Box 670, Buffalo, WY 82834, 307-684-5586.
- Newcastle Resource Area, Area Manager, Highway 16 Bypass, Newcastle, WY 82701, 307-746-4453.

Approved:

Daniel P. Baker,

State Director.

[FR Doc. 79-25247 Filed 8-14-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF INTERIOR

Office of the Secretary

[INT-DES-79-51]

Aravaipa Canyon Wilderness, Safford District, Arizona; Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for a proposed recommendation for congressional designation of Aravaipa Canyon as a wilderness area. The proposal involves 4,044 acres of public land in Pinal and Graham Countries, Arizona. The two

[1]Located at District Office.

alternatives considered: Increasing the size of the proposed wilderness by 2,543 acres of adjacent public land; and No Action. No plans are contemplated for a change in present management. The Department of the Interior invites written comments on the draft statement to be submitted within 45 days of this notice to the Arizona State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

A limited number of copies are available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240 Telephone: (202) 343–5717.

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073 Telephone: (602) 261–3831.

Safford District Office, Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546 Telephone: (602) 428–4040.

No public hearings are planned for this proposal.

Dated: August 10, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-25142 Filed 8-14-79; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Capital Region Proposed Public Transportation Access to East Potomac Park; Public Meeting

Pursuant to Section 304 of Public Law 95–344, dated August 15, 1978, the Department of the Interior, National Park Service, is proposing the development and implementation of a plan to provide a visitor transportation system in concert with available public transportation (Washington Metropolitan Area Transit Authority-WMATA) to national park lands located within the National Capital Region. The system, an experimental/demonstration project, shall involve the provision of bus service to East Potomac Park and Hains Point by means of connecting with the existing Metro Bus routes.

A public meeting shall be held Monday, August 20, 1979, at 7 p.m. in Room 507, Presidential Building, 415 12th Street, N.W., Washington, D.C. At that time all interested groups or individuals shall be provided the opportunity to comment upon the proposed development and implementation of this plan.

Dated: August 13, 1979.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 79-25343 Filed 8-14-79; 9:53 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-52]

Certain Apparatus for the Continuous Production of Copper Rod; Notice to the Parties and Order

On June 5, 1979, in *United States International Trade Commission* v. *Asarco Inc.* (D.C.D.C., Misc. No. 79–0123), attorneys for the Commission and attorneys for Asarco, Inc., entered into a voluntary dismissal and agreement of settlement representing a mutual exchange of benefits. Pursuant to the terms of Settlement Agreement between the Commission and Asarco, Inc., Asarco and the Commission investigative attorney in investigation No. 337–TA–52 were, among other things, to consult "as to the availability of drawings depicting the presently-installed cooling and cleaning system" at the Asarco facility. Pursuant to the Settlement Agreement, the Commission investigative attorney retained an independent expert witness who has not acted as a consultant to the complainant or any of the respondents in investigation No. 337–TA–52.

In conformity with the Settlement Agreement, the Commission investigative attorney has moved that the hearing in investigation No. 337–TA–52 be reopened for the purpose of offering into evidence certain Asarco drawings depicting the presently installed cooling and cleaning system, as well as the written testimony of the Commission investigative attorney's independent expert witness, James Dunham, relating to such drawings, and to provide for the cross-examination of Mr. Dunham by the parties to this investigation (Motion Docket No. 52–266). The Krupp and Bell respondents opposed the Commission investigative attorney's motion; complainant did not oppose the motion, but submitted no written support thereof. On August 3, 1979, the administrative law judge (ALJ) recommended that the hearing be reopened for the purposes requested by the Commission investigative attorney. The ALJ certified Motion Docket No. 52–266 and related papers to the Commission for disposition.

Order

Having considered Motion Docket No. 52–266 and related papers cerrified to us by the ALJ, Motion Docket No. 52–266 is hereby granted. Accordingly, the record in investigation No. 337–TA–52 will be reopened in conformity with the recommendation of the ALJ (Order No. 195 of Aug. 3, 1979).

Discussion

In considering Motion Docket No. 52–266 and the ALJ's recommendation, the Commission notes that § 210.53(d) of the Commission's *Rules of Practice and Procedure* provides that "at any time prior to the filing of his recommended determination, the presiding officer may reopen the proceedings for the reception of additional evidence." (19 CFR 210.53(d)). Notwithstanding our previous order that the hearing in this investigation be completed by June 12, 1979, we authorize the reopening of these proceedings by the ALJ for the purposes requested by the Commission investigative attorney in Motion Docket No. 52–266 in conformity with § 210.53 of our rules.

The Settlement Agreement between the Commission and Asarco in Misc. No. 79–0123 in the District Court for the District of Columbia, dated June 5, 1979, authorizes the Commission investigative attorney to retain an "independent expert . . . who has not acted as a consultant to the complainant or any of the respondents in 337–TA–52." (Settlement Agreement, par. 1.) In addition, Asarco and the Commission investigative attorney were to "consult as to the availability of drawings depicting the presently-installed cooling and cleaning system" at the Asarco facility. (Settlement Agreement, par. 3) Finally, the Commission investigative attorney and his retained independent expert were authorized to "report their findings under conditions of confidentiality to the Commission or its authorized agents and representatives, including testimony at an evidentiary hearing in the Commission investigation . . ." (Settlement Agreement, par. 4.) In order to protect certain Asarco trade secrets, the scope of the findings and testimony of the Commission investigative attorney and the independent expert relating to the cooling and cleaning portion of the mill were limited to determinations made in accordance with paragraph 3 of the Settlement Agreement. Accordingly, paragraph 3 of the Settlement Agreement limits the ability of the Commission investigative attorney and the independent expert to introduce

findings and testimony into the record in this investigation which would reveal Asarco trade secrets.

Although the Commission investigative attorney has elected not to pursue a physical inspection of Asarco's Amarillo, Tex. copper rod-producing mill pursuant to the Settlement Agreement, Asarco and the Commission investigative attorney have consulted as to the availability of drawings depicting the presently installed cooling and cleaning system at such facility. Such consultation is in conformity with paragraph 3 of the Settlement Agreement. In conformity with paragraph 4 of the Settlement Agreement, the Commission investigative attorney and the independent expert are entitled to report their findings with respect thereto "under conditions of confidentiality to the Commission or its authorized agents and representatives, including testimony at an evidentiary hearing in the Commission investigation. . . ." (Settlement Agreement, par. 4.) Therefore, pursuant to the Settlement Agreement between the Commission and Asarco of June 5, 1979, and, in conformity with § 210.53(d) of the Commission's rules, we have granted Motion Docket No. 52-266 and directed that the ALJ reopen the record in this investigation for the purposes requested by the Commission investigative attorney.

Issued: August 7, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-25204 Filed 8-14-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-57]

Certain Cattle Whips; Notice of Termination

Upon consideration of the presiding officer's recommended determination and the record in this proceeding, the Commission is ordering the termination of investigation No. 337-TA-57, *Certain Cattle Whips*, by granting a motion by all parties to terminate this investigation (Motion Docket No. 57-10) and accepting a consent order agreement proposed by all parties.

Any party wishing to petition for reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission Order, Action, and Opinion. Such petitions must be in accord with § 210.56 of the Commission rules (19 CFR 210.56). Any person adversely affected by a final Commission action may appeal such action to the United States Court of Customs and Patent Appeals.

Copies of the Commission's Order, Action, and Opinion (USITC Publication No. 993, August 1979) are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161. Notice of the institution of the Commission's investigation was published in the **Federal Register** of August 9, 1978 (43 FR 35398). The text of the proposed consent order agreement and the Commission's request for public comments thereon were published in the **Federal Register** of June 4, 1979 (44 FR 32048).

Issued: August 9, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-25206 Filed 8-14-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-42]

Certain Electric Slow Cookers; Commission Determination and Order

The U.S. International Trade Commission conducted an investigation under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the unauthorized importation into the United States of certain electric slow cookers covered by Claims 1 and 2 of U.S. Letters Patent No. 3,881,090, or in their sale by the owner, importer, consignee, or agent, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. On July 26, 1979, the Commission determined that there is a violation of section 337 and ordered that electric slow cookers falling within Claims 1 or 2 of U.S. Letters Patent No. 3,881,090 be excluded from entry into the United States for the term of that patent (until April 29, 1992) unless the importation is licensed by the patent owner.

The purpose of the Commission determination, order, and opinion is to provide for the final disposition of the Commission's investigation of certain electric slow cookers.

Determination

Having reviewed the record compiled in this investigation, the Commission on July 26, 1979, determined—

1. That with respect to H & H Manufacturing Company, H & H Applicances, and Electrical and Electronics, Ltd., which are respondents in investigation No. 337-TA-42, there is a violation of section 337 of the Tariff Act of 1930, as amended, in the importation into and sale in the United States of certain electric slow cookers by the owner, importer, consignee, or agent of either, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States;

2. That the appropriate remedy for such violation is to direct that electric slow cookers which infringe U.S. Letters Patent No. 3,881,090 be excluded from entry into the United States for the term of said patent, except where such importation is licensed by the owner of said patent;

3. That, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, such electric slow cookers should be excluded from entry; and

4. That the bond provided for in subsection (g)(3) of section 337 of the Tariff Act of 1930, as amended, be in the amount of 50 percent ad valorem (ad valorem to be determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a)) of the imported article.

Order

Accordingly, *it is hereby ordered*—

1. That electric slow cookers which infringe U.S. Letters Patent No. 3,881,090 are excluded from entry into the United States for the term of said patent, except where such importation is licensed by the owner of said patent;

2. That the electric slow cookers ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 50 percent ad valorem (ad valorem to be determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a)) from the day after this order is received by the President pursuant to section 337(g) of the Tariff Act of 1930, as amended, until such time as the President notifies the Commission that he approves or disapproves this action, but, in any event, not later than 60 days after such date of receipt;

3. That this order be published in the **Federal Register** and that this order and the opinion in support thereof, be served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and

Welfare, the U.S. Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury; and

5. That the Commission may amend this order at any time.

Issued: August 9, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-25205 Filed 8-14-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Consent Judgments in United States v. Bethlehem Steel Corporation, et al. and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16 (b) through (h), that a Proposed Consent Judgment and Competitive Impact Statement as set out below have been filed with the United States District Court for the Middle District of Florida in Civil No. 74-435-CIV-T-H, *United States of America* v. *Bethlehem Steel Corporation, et al.*, (August 5, 1974). The Proposed Decree would terminate the Department of Justice's civil antitrust suit involving the fabrication, sale and distribution of reinforcing steel materials throughout the State of Florida.

The complaint alleged that beginning at least as early as 1960, and continuing thereafter until at least the latter part of 1972, the defendants engaged in a combination and conspiracy to restrain interstate commerce in the fabrication and sale of reinforcing steel materials in the State of Florida.

The complaint sought a judgment by the court that the defendants had engaged in a combination and conspiracy in restraint of trade in violation of Section 1 of the Sherman Act together with an order by the court to enjoin and restrain the defendants from such activities in the future.

Proceedings in this case were stayed pending disposition of a companion criminal prosecution in Judge Ben Krentzman's Court. The criminal prosecution was initiated by a grand jury indictment returned on August 5, 1974, charging the same four corporate defendants and four individuals with criminal violations of the Sherman Act arising out of the same conspiracy alleged in the civil complaint. On November 25, 1974, pleas of *nolo contendere* were entered by defendants Bethlehem Steel Corporation, Laclede Steel Company and Owen Steel Company of Florida to the criminal charges and each defendant was ordered to pay the maximum fine of $50,000 by Judge Krentzman. Thereafter, on January 6, 1976, the defendant Florida Steel Corporation entered a plea of *nolo contendere* and a fine of $50,000 was imposed by Judge Krentzman.

The individual defendants proceeded to trial in February of 1976 and on February 14, 1976, Edward L. Flom, Richard E. Volland, Frank W. Hunsberger and David L. Hoffman were convicted by a jury. On March 26, 1976, Judge Krentzman fined each of the individual defendants as follows: Edward L. Flom—$25,000; David L. Hoffman—$5,000; Frank W. Hunsberger—$5,000 and Richard E. Volland—$3,000. Thereafter, on September 8, 1977, the United States Court of Appeals for the Fifth Circuit reversed and remanded said convictions as to the individual defendants. On November 29, 1977, the individual defendants entered pleas of *nolo contendere* and Judge Krentzman imposed the same fines originally levied against these defendants after trial and conviction. The fines against all of the defendants have been paid and the criminal case concluded.

Entry by this Court of the proposed Consent Judgment will terminate the cause of action for injunctive relief, except insofar as the Court will retain jurisidction over the matter for such further proceedings as may be required to interpret, modify or enforce the Judgment or to punish violations of any of the provisions of the Judgment.

The proposed Final Judgment permanently enjoins the defendants from directly or indirectly entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, combination or conspiracy: to fix, maintain or stabilize prices or any term or condition for the sale of re-bar materials in the State of Florida to any third person, to allocate, limit, or divide customers, construction projects, territories or markets in the sale of re-bar materials in the State of Florida or to submit knowingly any fraudulent or collusive bid to supply re-bar materials to any governmental entity or person in the State of Florida.

The only exception to the broard prohibitions of the Judgment concerns bona fide joint venture sub-contracts to sell or furnish re-bar materials for a specific construction project in the State of Florida. This exception, however, binds each defendant to make known to the purchaser of such materials, in writing, prior to or at the time of submission of any such joint bid or offer, the intention or fact that the supplier plans to submit or enter into a joint venture sub-contract.

In addition to the prohibitions of the Decree, the Judgment orders and directs each defendant to take certain affirmative steps to insure compliance with its provisions. Each defendant is required to advise each of its officers and employees engaged in the sale of re-bar materials of their obligations under the Final Judgment and of the criminal penalties for violation thereof. Further, each defendant is required to conduct at least once each year for five years after the entry of the Judgment, meetings of its officers and employees to review the terms of the Final Judgment and the requirement to comply therewith. For a period of five years from the date of the entry of the Judgment, each defendant is required to file with the Court and the United States a written statement signed by an officer setting forth the steps taken during the prior year to assure compliance with the terms of the Judgment.

Comments concerning the Proposed Judgment are invited from members of the public within the statutory 60 day time period. Such comments should be directed to Joseph H. Widmar, Director of Operations, Antitrust Division, United States Department of Justice, Washington, D.C. 20530.

Dated: August 8, 1979.

Charles F. B. McAleer,

Special Assistant for Judgment Negotiations.

In the U.S. District Court, Middle District of Florida, Tampa Division

United States of America, Plaintiff, vs. *Bethlehem Steel Corporation; Florida Steel Corporation; Laclede Steel Company; and Owen Steel Company of Florida*, Defendants.

Case No. 74-435 Civ. T-H.

Filed: August 3, 1979.

Stipulation

IT IS HEREBY STIPULATED by and between the plaintiff, United States of America, and each of the above named defendants, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form attached hereto may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the defendants and filing that notice with the Court.

2. In the event plaintiff withdraws its consent hereto, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall have no effect whatever and the making of this Stipulation shall be without prejudice to any consenting party in this or any other proceeding.

Dated:

For the Plaintiff: John H. Shenefield, Assistant Attorney General; Joseph H. Widmar, Charles F. B. McAleer, Attorneys, United States Department of Justice.

Wilford L. Whitley, Jr., Robert E. Bloch, Attorneys, United States Department of Justice.

For the Defendants: ———— of Trenam, Simmons, Kemker, Scharf, Barkin, Frye & O'Neill, Post Office Box 1102, Tampa, Florida 33601, Telephone (813)223-7474, Attorneys for Bethlehem Steel Corporation. C. H. Barnette, Vice President, Law and General Counsel, Bethlehem Steel Corporation, 2007 Martin Tower, Bethlehem, Pennsylvania 18016, Telephone: (215)694-6137, Attorney for Bethlehem Steel Corporation. James M. Landis of Carlton, Fields, Ward, Emmanuel, Smith & Cutler, Post Office Box 3239, Tampa, Florida 33601, Telephone (813)223-5366 and Hansell, Post, Brandon & Dorsey, 3300 First National Bank Tower, Atlanta, Georgia 30303, Telephone (404) 581-8000, Attorneys for Owen Steel Company. Ralph C. Dell of Allen, Dell, Frank & Trinkle, Post Office Box 2111, Tampa, Florida 33601, Telephone (813) 223-5351, Attorneys for Florida Steel Corporation. T. O. McDonald, Jr. of Shackleford, Farrior, Stallings & Evans, P.A., Post office Box 3324, Tampa, Florida 33601, Telephone (813)273-5000 and Lewis, Rice, Tucker, Allen & Chubb, Suite 1400 Railway Exchange Building, 611 Olive Street, St. Louis, Missouri 63101, Attorneys for Laclede Steel Company.

U.S. District Court, Middle District of Florida, Tampa Division

United States of America, Plaintiff, vs. *Bethlehem Steel Corporation, Florida Steel Corporation, Laclede Steel Company, and Owen Steel Company of Florida*, Defendants.

Civil No. 74-435-CIV-T-H.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on August 5, 1974, and plaintiff and the defendants, by their attorneys, having consented to the entry of this final Judgment, without the trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party consenting hereto with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby:

Ordered, adjudged and decreed as follows:

I.

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Sherman Act (15 U.S.C. § 1).

II.

As used in this Final Judgment:

A. "Re-bar Materials" means fabricated reinforcing steel bar meterials, including but not limited to ¼ inch to 1½ inch round and deformed reinforcing steel bars, steel wire mesh in varying gauges, and steel bar supports and accessories, used in reinforced concrete construction projects.

B. "Mill(s)" means a person engaged in the production and sale of mill length reinforcing steel bars and in the fabrication and sale of re-bar materials.

C. "Independent Fabricator(s)" means a person not affiliated with a mill who is engaged in the purchase of mill length reinforcing steel bars and in the fabrication and sale of re-bar materials.

D. "Construction projects" means any proposed public or private building, facility or installation and any proposed addition thereto which incorporates re-bar materials.

E. "Companies owned or controlled" by a defendant's parent means any company in which 50% or more of the stock is owned directly or indirectly by said parent or said parent's shareholders and their families.

III.

The provisions of this Final Judgment shall apply to each of the defendants and shall also apply to each of their domestic subsidiaries, successors and assigns and their officers, directors, agents and employees, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; provided, however, that this Final Judgment shall not apply to transactions or activities solely between a defendant and its directors, officers, employees, parent companies, companies owned or controlled by said parent, subsidiaries, or any of them when acting in such capacity.

IV.

Each defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, combination or conspriacy with any other mill, independent fabricator or other person to:

A. fix, maintain or stabilize prices, or any other term or condition for the sale of re-bar materials in the State of Florida to any third person;

B. allocate, limit or divide customers, construction projects, territories or markets in the sale of re-bar materials in the State of Florida; or

C. submit knowingly any fraudulent or collusive bid to supply re-bar materials to any governmental entity or person in the State of Florida.

V.

Nothing in this Final Judgment shall prohibit defendants from negotiating or entering into any bona fide and arms-length contract, agreement or understanding to sell or furnish re-bar materials to any mill, independent fabricator or competitor, or joint venture, subcontract or similar contract or agreement, to sell or furnish re-bar materials for any specific construction project, or from preparing or presenting, with any mill, independent fabricator or competitor, a joint bid or offer to sell re-bar materials for any specific construction project in the State of Florida, provided, however, that the intention or fact that a defendant plans to submit or enter into a joint venture, subcontract or similar agreement, or negotiate, prepare or present a joint bid or offer to sell re-bar materials for any construction project in the State of Florida with any other defendant, mill, independent fabricator or competitor is made known to the purchaser of said materials, in writing, prior to or at the time of submission of any joint bid or offer to sell re-bar materials for any specific construction project in the State of Florida.

VI.

Each defendant is ordered and directed to take the affirmative steps enumerated below to ensure compliance with each provision of this Final Judgment:

A. Each defendant shall advise each of its officers and employees, who sell re-bar materials, have responsibility for or authority over the sale of re-bar materials, or the establishment of prices therefor in the State of Florida, of their obligations under this Final Judgment and of the criminal penalities for violation of this Final Judgment;

B. Each defendant shall conduct, at least once each year for five (50 years after the entry of this Final Judgment, meetings of its officers and employees described above to review the terms of this Final Judgment and the requirements to comply therewith.

VII.

For a period of five (5) years from the date of entry of this Final Judgment, each defendant is ordered to file, with this Court and the plaintiff on each anniversary date of this Final Judgment, a written statement signed by an officer, setting forth the steps it has taken during the prior year to comply with Paragraph VI of this Final Judgment.

VIII.

A. For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

1. Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of such defendant and without restraint or

interference from it, to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matters.

B. A defendant, upon the written request of the Attorney General or the Assistant General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information or documents obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information of documents are furnished by a defendant to plaintiff pursuant to this Section, such defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26 (c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

IX.

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of any of the provisions herein, for the modification of any of the provisions contained herein, for the enforcement of compliance therewith and for the punishment of violations thereof.

X.

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

In the U.S. District Court, Middle District of Florida, Tampa Division

United States of America, Plaintiff, v. *Bethlehem Steel Corporation; Florida Steel Corporation; Laclede Steel Company; and Owen Steel Company of Florida,* Defendants.

Civil No. 74-435-CIV-T-H.

Filed: 8-3-79.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I.

Nature and Purpose of the Proceeding

On August 5, 1974, the United States filed a civil antitrust complaint under Section 4 of the Sherman Act (15 U.S.C. § 4) to enjoin the above named corporate defendants from continuing violations of Section 1 of the Sherman Act (15 U.S.C. § 1).

The complaint alleged that beginning at least as early as 1960 and continuing thereafter until at least the latter part of 1972, the defendants engaged in a combination and conspiracy in unreasonable restraint of interstate commerce in the fabrication and sale of reinforcing steel materials in the State of Florida.

The complaint seeks a Judgment by this Court that the defendants has engaged in a combination and conspiracy in restraint of trade in violation of Section 1 of the Sherman Act, together with an order by the Court to enjoin and restrain the defendants from such activities in the future.

Proceedings in this case were stayed pending disposition of a companion criminal prosecution in Judge Ben Krentzman's Court. The criminal prosecution was initiated by a grand jury indictment returned on August 5, 1974, charging the same four corporate defendants and four individuals with criminal violations of the Sherman Act arising out of the same conspiracy alleged in the civil complaint. On November 25, 1974, pleas of *nolo contendere* were entered by defendants Bethlehem Steel Corporation, Laclede Steel Company and Owen Steel Company of Florida to the criminal charges and each defendant was ordered to pay the maximum fine of $50,000 by Judge Krentzman. Thereafter, on January 6, 1976, the defendant Florida Steel Corporation entered a plea of *nolo contendere* and a fine of $50,000 was imposed by Judge Krentzman.

The individual defendants proceeded to trial in February of 1976 and on February 14, 1976, Edward L. Flom, Richard E. Volland, Frank W. Hunsberger and David L. Hoffman were convicted by a jury. On March 26, 1976, Judge Krentzman fined each of the individual defendants as follows: Edward L. Flom—$25,999; David L. Hoffman—$5,000; Frank W. Hunsberger—$5,000 and Richard E. Volland—$3,000. Thereafter, on September 8, 1977, the United States Court of Appeals for the Fifth Circuit reversed and remanded said convictions as the individual defendants. On November 29, 1977, the individual defendants entered pleas of *nolo contendere* and Judge Krentzman imposed the same fines originally levied against these defendants after trial and conviction. The fines against all of the defendants have been paid and the criminal case concluded.

Entry by this Court of the proposed Consent Judgment will terminate the cause of action for injunctive relief, except insofar as the Court will retain jurisdiction over the matter for such further proceedings as may be required to interpret, modify or enforce the Judgment or to punish violations of any of the provisions of the Judgment.

II.

The Terms of the Alleged Conspiracy

At the time of the institution of these proceedings, all of the defendant steel mills were engaged in the production and sale of reinforcing steel bars and in the fabrication and sale of reinforcing steel materials in Florida. It is understood that during the course of these proceedings, defendant Laclede Steel Company discontinued the production and sale of reinforcing steel bars and the fabrication and sale of reinforcing steel materials in Florida. Re-bar materials include round and deformed reinforcing steel bars, steel wire mesh in various gauges and steel bar supports and accessories used in reinforced concrete construction. During the period of time covered by this complaint, sales or re-bar materials by the defendants were substantial. For example, for the two year period of 1972 and 1973, such sales approximated 422,000 tons and had a value of over $85 million.

The complaint alleges that the defendants combined and conspired to restrain trade from at least as early as 1960 until at least the latter part of 1972 in violation of Section 1 of the Sherman act by stabilizing prices of reinforcing steel materials and allocating specific contracts for the sale of re-bar materials among the participants in the State of Florida. According to the complaint, the conspiracy among the defendants had the effects of suppressing price competition in the sale of re-bar materials in the State of Florida, depriving users of re-bar materials in the State of Florida of the opportunity to purchase such materials in an open and competitive market and increasing and stabilizing prices of re-bar materials in the State of Florida.

III.

Explanation of the Proposed Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation between the parties provides that there is no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest.

The proposed Final Judgment permanently enjoins the defendants from directly or indirectly entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, combination or conspiracy: to fix, maintain or stabilize prices or any term or condition for the sale of re-bar materials in the State of Florida to any third person, to allocate limit or divide customers, construction projects, territories or markets in the sale of re-bar materials in the State of Florida or to submit knowingly any fraudulent or collusive bid to supply re-bar materials to any governmental entity or person in the State of Florida.

The only exception to the broad prohibitions of the Judgment concerns bona fide joint venture sub-contracts to sell or furnish re-bar materials for a specific construction project in the State of Florida. This exception, however, binds each defendant to make known to the purchaser of such materials, in writing, prior to or at the time of submission of any such joint bid or offer, the intention or fact that the supplier plans to submit or enter into a joint venture sub-contract.

In addition to the prohibitions of the Decree, the Judgment orders and direct each defendant to take certain affirmative steps to insure compliance with its provisions. Each defendant is required to advise each of its officers and employees engaged in the sale of re-bar materials of their obligations under the Final Judgment and of the criminal penalties for violation thereof. Further, each defendant is required to conduct at least once each year for five years after the entry of the Judgment, meetings of its officers and employees to review the terms of the Final Judgment and the requirement to comply therewith. For a period of five years from the date of the entry of the Judgment, each defendant is required to file with the Court and the United States a written statement signed by an officer setting forth the steps taken during the prior year to assure compliance with the terms of the Judgment.

The Department of Justice is given access under the proposed Judgment to the files and records of the defendant corporations to examine such records for compliance or non-compliance with the Judgment. The Department is also granted access to interview officers, directors, agents or employees of the defendants to determine whether the defendants are complying with the Judgment. Finally, the defendants, upon the written request of the Department of Justice, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in the Decree.

IV.

Remedies Available to Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney's fees. The entry of the proposed Final Judgment will not have any effect on the rights of any potential private plaintiff who claims to have been damaged by the alleged violation to sue for monetary damages or any other legal or equitable remedies, provided that such potential claim is timely under Section 4 and 5(i) of the Clayton Act (15 U.S.C. §§ 15, 16(i)). However, this Final Judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)).

Within two weeks of the filing of this civil action by the United States, three separate class actions were filed in this Court followed by a fourth some five months later. Collectively these four class actions sought treble damages on behalf of every type of consumer of fabricated re-bar including sub-contractors, general contractors, owner-builders and owners, both public and private, allegedly injured by unlawfully increased prices for fabricated re-bar. These actions also seek to enjoin certain practices which are alleged to have caused increased prices for fabricated re-bar. Since the filing of the four class actions, three additional actions asserting essentially the same claims have been filed by various plantiffs seeking similar relief.

On March 12, 1979, the request for class certification was denied by this Court but liberal intervention was suggested by the Court. Since that time, an additional action has been filed by a major public utility seeking damages arising from the same alleged conduct. In all there are now over sixty (60) plaintiffs asserting the claims described above and it is anticipated that this number will be increased by intervention.

Five competing independent fabricators filed suit in December of 1975 seeking recovery on essentially the same facts as asserted in the above-referenced actions, but also asserting various Robinson-Patman claims.

The defendants in this action are subject to nine separate antitrust actions in which various Sherman Act and Robinson-Patman Act claims are asserted. The plaintiffs collectively comprise every type of customer for fabricated re-bar as well as competing fabricators and seek both treble damages and injunctive relief.

V.

Procedures Available for Modification for the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Joseph H. Widmar, Director of Operations, Antitrust Division, Department of Justice, 10th & Constitution Avenue, Washington, D.C. 20530, within the 60-day period provided by the Act. The comments, and the government's responses to them, will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of the Judgment is necessary to the public interest. The proposed Judgment itself provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification or enforcement of the Judgment.

VI.

Alternatives to the Proposed Final Judgment

The proposed Judgment disposes of the claim for injunctive relief. The only alternative available to the Department of Justice is a full trial of this issue on the merits. It was determined that such a trial would involve a substantial expense to the United States and an unwarranted burden upon the Court since the proposed Judgment provides essentially all the equitable relief requested in the complaint. The Decree absolutely prohibits the continuation or revival of the "bid rigging" scheme employed by the defendant steel mills in the sale of re-bar materials in the State of Florida. It further severely limits the circumstances in which representatives of the defendants can otherwise communicate with competitors concerning prices. It is the view of the United States that the proposed Consent Judgment will be effective to restore competition in the fabrication and sale of reinforcing steel materials in the State of Florida.

VII.

Determinative Materials

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)] were considered in formulating this proposed Judgment. Consequently, none are filed herewith.

Wilford L. Whitley, Jr.

Robert E. Bloch.

[FR Doc. 79-25104 Filed 8-14-79; 8:45 am]

BILLING CODE 441001-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The seventeenth meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Royal Sonesta Hotel, New Orleans, Louisiana in the Belle Grove Room. The meeting will begin at 2:00 p.m. on Saturday, September 15 and conclude at 4:00 p.m. on Tuesday, September 18.

Requests for presenting testimony must be submitted 30 days prior to the meeting date and must indicate the topics to be discussed. Individuals and organizations requesting time must limit oral testimony to not more than ten minutes. Forty copies of written testimony must be submitted, but oral testimony should summarize any written testimony. Depending upon the number of persons and organizations requesting the opportunity to testify at a meeting, and the topics to be discussed, individuals and organizations will be notified of time and place allocated for testimony. Whenever feasible, individuals and organizations presenting similar views will be grouped together and will be handled as a panel in order to enable discussion, questioning, and responses to be developed with a view to assisting the Commission to deal with the mandate established by the Congress.

Telephone inquiries and communications concerning this meeting should be directed to:

Roger Webb, Deputy Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Room 440, Rosslyn, Virginia 22209, (702) 235-2782.

Signed at Washington, D.C. this 7th day of August, 1979.

Roger Webb,

Deputy Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-25124 Filed 8-14-79; 8:45 am]

BILLING CODE 4510-27-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-321]

Georgia Power Co., et al.; Proposed Issuance of Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-57 and NPF-5, issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia, and City of Dalton, Georgia, (the licensee), for operation of the Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2 located in Appling County, Georgia.

The amendments would revise the Technical Specifications to reflect an increase in spent fuel capacity at Hatch Unit Nos. 1 and 2. The Hatch No. 1 pool capacity will be increased from 840 to 3181 fuel assemblies. The Unit 2 capacity will be increased from 1120 to 2845 assemblies. The amendments might require revision of design features and operating limits for the storage pools, to accommodate the increased storage capacity. The license would be revised to permit storage of elements from each reactor in either pool. The licensee's application for the amendments was submitted by letter dated July 9, 1979.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By September 14, 1979, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interests may be affected by this proceeding and who wishes to particiapte as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, 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 or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted 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. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, or may be delivered to the Commisssion's Public Document Room, 1717 H Street, NW, Washington, DC or by above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Thomas Ippolito: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice.) A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated July 9, 1979, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the Appling County Public Library, Parker Street, Atlanta, Georgia 31513.

Dated at Bethesda, Maryland this 7th day of August 1979.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-24993 Filed 8-14-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 (SP) and 50-251 (SP)]

Florida Power & Light Co. (Turkey Point Nuclear Generating Units 3 and 4), Proposed Amendments to Facility Operating License To Permit Steam Generator Repairs; Hearing

August 9, 1979.

In the matter of Florida Power & Light Co. (Turkey Point Nuclear Generating Units 3 and 4).

On December 13, 1977, the Nuclear Regulatory Commission noticed an amendment to the facility operating licenses of Florida Power and Light (FPL), Nos. DPR-31 and DPR-41, relative to proposed steam generator repairs at Turkey Point Nuclear Generating Units 3 and 4, located in Dade County, Florida (42 FR 62569). The Notice stated that petitions to intervene should be submitted prior to the expiration of the thirty-day (30) period from the date of the Notice, or January 13, 1978. No petitions to intervene were filed during this period.

On February 9, 1979, more than a year after the expiration of the intervention period, Mark P. Oncavage requested a hearing. An Atomic Safety and Licensing Board was established to rule on the petition and to preside over the proceeding in the event that a hearing was ordered. (44 FR 12120).

Following a prehearing conference on May 2, 1979, and in consideration of subsequent events, the Petition Review Board determined on August 3, 1979, that the Petitioner should be granted the status as an Intervenor and issued an Order granting the petition and admitting Mr. Oncavage as a party to the proceeding.

Please take notice that a hearing will be conducted in this proceeding. The Atomic Safety and Licensing Board which has been designated to preside over this proceeding consists of Dr. David B. Hall, Dr. Oscar H. Paris, and Elizabeth S. Bowers, who will serve as Chairman of the Board.

During the course of the proceeding, the Board will hold one or more prehearing conferences. The public is invited to attend any prehearing conferences, as well as the evidentiary hearing. During some or all of these sessions, and in accordance with 10 CFR Section 2.715(a), any person, not a party to the proceeding, will be permitted to make a limited appearance statement, either orally or in writing, stating his or her position on the issues. The number of persons making oral statements will be limited and the time allowed for each oral statement will be limited to five (5) minutes. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section. Written statements supplementing or in lieu of oral statements may be of any length and will be accepted at any session of the proceeding or may be mailed to the Secretary of the Commission.

For further details, see the Licensee's transmittal letter dated September 20, 1977 and the enclosed Steam Generator Repair Report, other material submitted by the Licensee in support of this action, and papers filed concerning the petition for leave to intervene, including the Order ruling upon the intervention petition, dated August 3, 1979, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Local NRC Public Document Room, Environmental and Urban Affairs Library, Florida International University, Miami, Florida. The following documents may be inspected at the above locations: (1) the Safety Evaluation Report prepared by the Commission's Office of Nuclear Reactor Regulation; and (2) any environmental review documents which may be required by the Commission's regulations in 10 CFR Part 51 and all subsequent filings by the Board and the parties.

It is so ordered.

Dated at Bethesda, Maryland, this 9th day of August 1979.

The Atomic Safety and Licensing Board.

Elizabeth S. Bowers,

Chairman.

[FR Doc. 79-25117 Filed 8-14-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1); Order and Notice of Hearing

In the Matter of Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1).

I. The Metropolitan Edison Company (the licensee) is holder of Facility Operating License No. DPR-50 which authorizes the operation of the nuclear power reactor known as Three Mile Island Nuclear Station, Unit No. 1 (the facility or TMI-1), at steady state power levels not in excess of 2535 megawatts thermal (rated power). The facility is a Babcock and Wilcox (B&W) designed pressurized water reactor (PWR) located at the licensee's site ten miles southeast of Harrisburg, Pennsylvania.

II. On July 2, 1979, the Commission ordered that the facility remain in a cold shutdown condition until further order of the Commission and stated that a hearing will be conducted prior to any restart of the facility. On the basis of that hearing the Commission will determine whether any further operation will be permitted and, if so, under what conditions. The Commission herein specifies the basis for its concerns and the procedures to govern further proceedings in this matter. For the reasons later set forth, the Commission has determined that satisfactory completion of certain short-term actions and resolution of various concerns described herein are required to provide reasonable assurance that the facility can be operated without endangering the health and safety of the public. The Commission has determined that certain additional long-term actions are, for the reasons given below, required to be completed as promptly as practicable, and that reasonable progress on the completion of such actions prior to restart is required, in order to provide reasonable assurance that the facility can be operated safely over the long term. This Order and notice of hearing further establishes procedures for a hearing and decision on the particular issues identified in Section V of this Order. The Commission has determined that hearing and decision with review thereof (as provided in Sections V and VI below) on the issues specified in this order is required and that such hearing, decision and review on the issues relating to the actions required prior to restart of the facility must be completed prior to any Commission Order lifting the suspension of operation.

Accordingly, the Atomic Safety and Licensing Board designated to conduct this proceeding should give priority to consideration of those issues which are related directly to suspension of operation. To the extent feasible, the Board should defer full review of the issues related to the longer-term actions until after the rendering of partial initial decision regarding the suspension-related issues.

The Commission's July 2, 1979 Order recited that "the Commission presently lacks the requisite reasonable assurance that the . . . Licensee's Three Mile Island Unit No. 1 Facility . . . can be operated without endangering the health and safety of the public." The bases for

that conclusion (which remains valid) are:

In the course of its evaluation to date of the accident at the Three Mile Island Unit No. 2 facility, which utilizes a B&W designed PWR, the Nuclear Regulatory Commission staff has ascertained that B&W designed reactors appear to be unusually sensitive to certain off-normal transient conditions originating in the secondary system. The features of the B&W design that contribute to this sensitivity are: (1) design of the steam generators to operate with relatively small liquid volume in the secondary side; (2) the lack of direct initiation of reactor trip upon the occurrence of off-normal conditions in the feedwater system; (3) reliance on an integrated control system (ICS) to automatically regulate feedwater flow; (4) actuation before reactor trip of a pilot-operated relief valve on the primary system pressurizer (which, if the valve sticks open, can aggravate the event); and (5) a low steam generator elevation (relative to the reactor vessel) which provides a smaller driving head for natural circulation.

Because of these features, B&W designed reactors place more reliance on the reliability and performance characteristics of the auxiliary feedwater system, the integrated control system, and the emergency core cooling system (ECCS) peformance to recover from frequent anticipated transients, such as loss of offsite power and loss of normal feedwater, than do other PWR designs. This, in turn, places a large burden on the plant operators in the event of off-normal system behavior during such anticipated transients.

As a result of a preliminary review of the Three Mile Island Unit No. 2 accident chronology, the NRC staff initially identified several human errors that occurred during the accident and contributed significantly to its severity. All holders of operating licenses, except Metropolitan Edison, whose plants were already shutdown, were subsequently instructed to take a number of immediate actions to avoid repetition of errors, in accordance with bulletins issued by the Commission's Office of Inspection and Enforcement (IE). In addition, the NRC staff began an immediate reevaluation of the design features of B&W reactors to determine whether additional safety corrections or improvements were necessary with respect to these reactors. This evaluation involved numerous meetings with B&W and certain of the affected licensees.

The evaluation identified design features as discussed above which indicated that B&W designed reactors are unusually sensitive to certain off-normal transient conditions originating in the secondary system. As a result, an additional bulletin was issued by IE which instructed holders of operating licenses for B&W designed reactors to take further actions, including immediate changes to decrease the reactor high pressure trip point and increase the pressurizer pilot-operated relief valve setting. Also, as a result of this evaluation, the NRC staff identified certain other safety concerns that warranted additional short-term design and procedural changes at operating facilities having B&W designed reactors. These were identified as items (a) through (e) on page 1-7 of the Office of Nuclear Reactor Regulation Status Report to the Commission of April 25, 1979.

In addition to the items identified for the other B&W reactors, the unique circumstances at TMI require that additional safety concerns identified by the NRC staff be resolved prior to restart. These concerns result from (1) potential interaction between Unit 1 and the damaged Unit 2, (2) questions about the management capabilities and technical resources of Metropolitan Edison, including the impact of the Unit 2 accident on these, (3) potential effect of operations necessary to decontaminate the Unit 2 facility on Unit 1, and (4) recognized deficiencies in emergency plans and station operating procedures. Based on the above, the Commission's Director of Nuclear Reactor Regulation (NRR) has recommended that the following actions (the "short-term action") be required of the licensee to resolve the concerns stated herein and permit a finding of reasonable assurance that the facility can safely resume operation.

1. The licensee shall take the following actions with respect to TMI-1:

(a) Upgrade the timeliness and reliability of the Emergency Feedwater (EFW) system by performing the items specified in Enclosure 1 of the licensee's June 28, 1979 letter. Changes in design will be submitted to the NRC staff for review.

(b) Develop and implement operating procedures for initiating and controlling EFW independent of Integrated Control System (ICS) control.

(c) Install a hard-wired control grade reactor trip on loss of main feedwater and/or on turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) Augment the retraining of all Reactor Operators and Senior Reactor Operators assigned to the control room including training in the areas of natural circulation and small break loss of coolant accidents including revised procedures and the TMI-2 accident. All operators will also receive training at the B&W simulator on the TMI-2 accident and the licensee will conduct a 100 percent reexamination of all operators in these areas. NRC will administer complete examinations to all licensed personnel in accordance with 10 CFR 55.20-23.

2. The licensee shall provide for NRC review and approval of all applicable actions specified in IE Bulletins 79-05A, 79-05B, and 79-05C.

3. The licensee shall improve his emergency preparedness in accordance with the following:

(a) Upgrade emergency plans to satisfy Regulatory Guide 1.101 with special attention to action level criteria based on plant parameters.

(b) Establish an Emergency Operations Center for Federal, State and Local Officials and designate a location and an alternate location and provide communications to plant.

(c) Upgrade offsite monitoring capability, including additional thermo-luminescent dosimeters or equivalent.

(d) Assess the relationship of State/Local plans to the licensee plans so as to assure the capability to take emergency actions.

(e) Conduct a test exercise of its emergency plan.

4. The licensee shall demonstrate that decontamination and/or restoration operations at TMI-2 will not affect safe operations at TMI-1. The licensee shall provide separation and/or isolation of TMI 1/2 radioactive liquid transfer lines, fuel handling areas, ventilation systems, and sampling lines. Effluent monitoring instruments shall have the capability of discriminating between effluents resulting from Unit 1 or Unit 2 operations.

5. The licensee shall demonstrate that the waste management capability, including storage and processing, for solid, liquid, and gaseous wastes is adequate to assure safe operation of TMI-1, and that TMI-1 waste handling capability is not relied on by operations at TMI-2.

6. The licensee shall demonstrate his managerial capability and resources to operate Unit 1 while maintaining Unit 2 in a safe configuration and carrying out planned decontamination and/or restoration activities. Issues to be addressed include the adequacy of groups providing safety review and

operational advice, the management and technical capability and training of operations staff, the adequacy of the operational Quality Assurance program and the facility procedures, and the capability of important support organizations such as Health Physics and Plant Maintenance.

7. The licensee shall demonstrate his financial qualifications to the extent relevant to his ability to operate TMI–1 safely.

8. The licensee shall comply with the Category A recommendations as specified in Table B–1 of NUREG–0578.

The Commission has additional concerns, which, though they need not be resolved prior to resumption of operation at Three Mile Island Unit 1, must be satisfactorily addressed in a timely manner. The Commission's Director of Nuclear Reactor Regulation (NRR) has recommended that the following actions (the "long-term actions") be required of the licensee to resolve these concerns and permit a finding of reasonable assurance of the safety of long-term operation. These are:

1. submit a failure mode and effects analysis of the ICS to the NRC staff as soon as practicable;

2. give continued attention to transient analysis and procedures for management of small breaks by a formal program set up to assure timely action of these matters;

3. comply with the Category B recommendations as specified in Table B–1 of NUREG–0578; and,

4. improve emergency preparedness in accordance with the following:

(a) modify emergency plans to address changing capabilities of plant instrumentation,

(b) extend the capability to take appropriate emergency actions for the population around the site to a distance of ten miles.

III. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR, it is hereby ordered that:

(1) the licensee shall maintain TMI–1 in a cold shutdown condition until further order of the Commission which will be issued following satisfactory completion of the required short-term actions and reasonable progress toward satisfactory completion of those required long-term actions referred to in section IV (such short-term and long-term actions to be considered "required" for purposes of this clause which are determined by the Commission, after review of the Licensing Board's decision, to be necessary and sufficient to provide adequate protection of the public health and safety); and

(2) the licensee shall satisfactorily complete the long-term actions listed in Table B–1 of NUREG–0578 on the schedule set out in such table and such other long-term actions listed above as promptly as practicable.

IV. The Commission has determined that, in light of the concerns listed above, the public health, safety and interest require that the portion of the order referred to in clause (1) of Section III shall be immediately effective. The long-term actions referred to in such clause shall be those long-term actions listed in section II as to which the Commission, prior to the date of this order, has issued immediately effective orders against other licensees. If the Commission issues immediately effective orders against other licensees imposing requirements with respect to other long-term actions, it will, to the extent appropriate in the circumstances, issue orders, effective immediately, to require that the licensee demonstrate reasonable progress toward completion of such other actions as a condition to restart. If the Board determines that operation can be resumed upon completion of certain specific short-term actions by the licensee, it shall consider the extent to which the licensee has demonstrated reasonable progress toward completion of the long-term actions described in this section. If it finds that the licensee has demonstrated reasonable progress, it shall recommend resumption of operation upon completion of the short-term actions. If it cannot make such a finding, it shall recommend that operation be resumed at a date that it believes appropriately reflects the importance of the action involved, the time lost because such progress had not been made on the prescribed schedule and the overriding need to provide adequate protection for the public health and safety.

V. An Atomic Safety and Licensing Board consisting of Ivan W. Smith, Esq., Chairman, Dr. Walter H. Jordan, Member, and Dr. Linda W. Little, Member, is hereby established to rule on petitions to intervene, to conduct the hearing ordered herein, and to render an initial decision in accordance with 10 CFR 2.760. The Atomic Safety and Licensing Board will issue a further order specifying the date and place of the hearing and any prehearing conferences. The Board should hold its sessions in the vicinity of the facility and it should attempt to schedule some of its sessions in the evening or on weekends to permit the maximum possible public attendance.

The hearing will be conducted in accordance with the applicable provisions of subpart G of the Commission's Rules of Practice set forth in 10 CFR Part 2. The provisions of 10 CFR 2.715a (consolidation of parties), 2.751a (special prehearing conference and order), 2.752 (prehearing conference and order) shall apply to this proceeding.

The Commission's primary commitment is to a fair and thorough hearing and decision. Given this overriding imperative, it is the Commission's expectation that the Board will conduct the proceeding expeditiously. The Board should as early as possible publish an appropriate schedule and attempt to meet it. A tentative schedule composed by the Commission is attached for the Board's possible use, although the Board should not be constrained by it. The Board is instructed to explore opportunities to shorten the time limits provided in the rules pursuant to 10 CFR 2.711. The Licensing Board is hereby instructed to consolidate participation of parties pursuant to 10 CFR 2.715a to the maximum extent practicable consistent with the provisions of that regulation. In its review of the Initial Decision, the Commission will invoke 10 CFR 2.711 to shorten time limits where feasible. It is hereby directed, pursuant to 2.760(a), that, upon issuance of the initial decision (or partial initial decision) in this matter, the record be certified to the Commission itself for final decision. Any party may take an appeal directly with the Commission by filing exceptions to the initial decision (or partial initial decision) in accordance with the provisions of 10 CFR 2.762. Commission review of the initial decision will be conducted in accordance with 10 CFR 2.770.

In the conduct of this proceeding the Licensing Board should exercise its authority to seek to ensure that it receives all information necessary to a thorough investigation and resolution of the questions before it. However, it should use its authority under 10 CFR 2.757 to prevent any undue delay to the proceeding resulting from any cross-examination not required for the full and true disclosure of the facts or from other sources mentioned in that section.

The provisions for pre-hearing discovery set forth in 10 CFR 2.740–2.742 shall apply to this proceeding. Furthermore, in several locations, including the Commission's Public Document Room and the TMI Local Document Room in Harrisburg, the Commission will maintain and continuously update a compilation of all

publicly available information on the Three Mile Island accident and related matters, and it will also permit informal access to NRC staff considerations of the issues involved in this hearing in the manner in which such access is permitted in reactor licensing proceedings. It shall be an adequate response to any discovery request to state that the information or document requested is available in the public compilation and to provide sufficient information to locate the document or information. Moreover, as provided by 10 CFR 2.740(c) and 10 CFR 2.740(d), the licensing board may and should, when not inconsistent with fairness to all parties, limit the extent or control the sequence of discovery to prevent undue delay or imposition of an undue burden on any party.

The subjects to be considered at the hearing shall include:

(1) Whether the "short term actions" recommended by the Director of Nuclear Reactor Regulation (set forth in Section II of this Order) are necessary and sufficient to provide reasonable assurance that the Three Mile Island Unit 1 facility can be operated without endangering the health and safety of the public, and should be required before resumption of operation should be permitted.

(2) Whether the "long-term actions" recommended by the Director of Nuclear Reactor Regulation (set forth in Section II of this Order) are necessary and sufficient to provide reasonable assurance that the facility can be operated for the long term without endangering the halth and safety of the public, and should be required of the licensee as soon as practicable.

As to the issue of financial qualifications mentioned above, a party wishing to raise this subject as a contention must clearly indicate why the licensee's financial condition might undermine the licensee's ability to operate the plant safely. Parties raising this issue should do so before the Special Prehearing Conference.

While real and substantial concern attaches to issues such as psychological distress and others arising from the continuing impact of aspects of the Three Mile Island accident unrelated directly to exposure to radiation on the part of citizens living near the plant, the Commission has not determined whether such issues can legally be relevant to this proceeding. Any party wishing to raise such subjects as contentions, or as aspects of separate contentions, should brief the Atomic Energy Act and National Environmental Policy Act issues he believes appropriate to the Board as part of the contention acceptance process set out in the Commission's regulations. The Board should then certify such issues to the Commission for final decision prior to the issuance of its prehearing conference order pursuant to 10 CFR 2.752(c), either with or without its recommendation on such issues, as it deems appropriate under the circumstances. At the time the Commission reaches a decision on these issues, it will also consider whether it can and should grant financial assistance to parties seeking to raise these issues in this case.

Satisfactory completion of the required actions will be determined by the Director of Nuclear Reactor Regulation. However, prior to issuing its decision the Board shall have authority to require staff to inform it of the detailed steps staff believes necessary to implement actions the Board may require and to approve or disapprove of the adequacy of such measures. With respect to any uncompleted items the Board shall have authority similar to that provided in 10 CFR 50.57(b) to take such actions or to impose such limitations or conditions as it believes necessary to protect the public health and safety: Provided, that, as provided elsewhere in this order, restart shall not be permitted until satisfactory completion of all uncompleted short-term actions. Any affirmative determination by the Director will be based upon his finding that the actions specified by the Board, or by the Commission on review, have been taken, that the specified implementing procedures employed are appropriate, that the licensee satisfies the financial qualification criteria imposed on an applicant for an operating license, and that there is reasonable assurance that the facility can safely resume operation.

As noted above, the Atomic Safety and Licensing Board should accord priority to the consideration of matters relating to the need for continued suspension of operating authority. Within the limitations of 10 CFR 50.59 and 2.717(b) of the Commission's regulations, the licensee may commence modifications, such as those recommended above by the Director of Nuclear Reactor Regulation, during the pendency of this proceeding at its own risk.

VI. If the Licensing Board should issue a decision authorizing resumption of operation upon completion of certain short-term actions by the licensee and a finding that in its judgment the licensee is making reasonable progress toward completion of the long-term actions specified in this order as to which the Commission has issued immediately effective orders against other licensees, and subsequently if staff certifies that those short-term actions have been completed to its satisfaction, the Commission will issue an order within 35 days after such certification deciding whether the provision of this order requiring the licensee to remain shut down shall remain immediately effective. Any motions relating to the lifting of immediate effectiveness must be received by the Secretary of the Commission within 10 days of issuance of the certification, and any responses to such motions must be received by the Secretary 7 days later. The Commission shall issue an order lifting immediate effectiveness if it determines that the public health, safety or interest no longer require immediate effectiveness. The Commission's decision on that question shall not affect its direct appellate review of the merits of the Board's decision.

VII. By September 4, 1979, the licensee may file a written answer to this Order and any person whose interest may be affected by this proceeding may file a written petition to intervene. Petitions for leave to intervene must be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a petition for leave to intervene is filed by the above date, the Atomic Safety and Licensing Board established by this Order will rule on the petition and issue an appropriate further order. An order wholly denying a petition for leave to intervene shall be appealable by the petitioner to the Commission itself within 10 days after service of the order. An order granting a petition for leave to intervene shall be appealable to the Commission itself by a party other than the petitioner on the question of whether the petition should have been wholly denied.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors:

(1) The nature of the petitioner's right under the Atomic Energy 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.

The petition should identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter, and the bases for each concern set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

An answer to this Order or petition for leave to intervene should 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 Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by September 4, 1979. A copy of the petition should be sent to the Executive Legal Dorector, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Mr. George F. Trowbridge, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee. Any questions or requests for additional information regarding the content of this Notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions or supplemental petitions will not be entertained absent a determination that the petitioner has made a substantial showing of good cause for the granting of a later petition. That determination will be based on a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and 2.714(d).

VIII. Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and are being placed in the Commission's local public document room at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

August 1 Commission Order.

April 16 Ltr. Herbein to Denton (prior notice will be given before restart).

June 28 Ltr. Herbein to Denton (modifications to be completed before TMI–1 restart).

June 28 NRC Staff Meeting summary on TMI–1 restart NUREG–0578.

I&E Bulletins 79–05A, 79–05B, 79–05C.

Dated at Washington, D.C. this 9th day of August, 1979.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

Milestone	Time consumed (days)	Total days into proceeding
Publication of Notice (Detailed Order)	0	0
Filing of Intervention Petitions	20	20
Answers to Petitions	15	35
Time for Amending Petitions and for Negotiations re Contentions	25	60
Time between filing Amended Petitions and Contentions and Special Prehearing Conference	15	75
Publication of Special Prehearing Conference Order	5	80
(Discovery begins)		
Discovery completed	60	140
During discovery period:		
Objections to Special Prehearing Conference Order 10 days		
Possible further refinement of contentions		
Prehearing Conference		140
Prehearing Conference Order	5	145
Filing of Testimony	20	165
(Assumes objections to prehearing Conference Order filed simultaneously)		
Begin Hearings	15	180
Complete Hearings	60	240
Filing of Proposed Findings	40	280
Reply to Proposed Findings	10	290
Decision by Boardd	45	335

[FR Doc. 79-25113 Filed 8-14-79; 8:45 am]

BILLING CODE 7590-01-M

Abnormal Occurrence Report; Sixteenth Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission has published and issued the sixteenth periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 2, No. 1). The release date is August 9, 1979.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the **Federal Register** (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The sixteenth report to Congress is for the first quarter of 1979. The report identifies the occurrences or events that the Commission determined were significant and the remedial action that was undertaken. The report indicates that the following incidents or events were determined by the Commission to be significant and reportable:

(a) There were three abnormal occurrences at the 70 nuclear power plants licensed to operate. One was the nuclear accident at Three Mile Island, the second involved deficiencies in piping design (resulting in five plants being shut down), and the third involved degraded engineered safety systems. (Note—Although the formal procedural determinations for the first two items were not completed in the first quarter of calendar 1979, the events are included because of their importance and the extensive publicity they received.)

(b) There was one abnormal occurrence at fuel cycle facilities (other than nuclear power plants). The event pertained to an extortion attempt involving alleged theft of licensed material.

(c) There were no abnormal occurrences at other licensee facilities.

(d) There were no abnormal occurrences reported by the Agreement States.

The sixteenth report to the Congress also contains updating information on an abnormal occurrence reported in a previous report.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C. or at any of the 130 local Public Document Rooms throughout the country. The report, designated NUREG–0090, Vol. 2, No. 1, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, at $4.50 a copy on or about August 23, 1979.

Dated at Washington, D.C. this 9th day of August 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-25114 Filed 8-14-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE FEDERAL REGISTER

Availability of U.S. Senate Procurement Regulations

Editorial Note

The United States Senate Committee on Rules and Administration adopted procurement regulations for the United States Senate on July 26, 1979, which apply to all procurements of personal property and non-personal services with some exceptions. For a copy of these regulations write to:

The Chairman, United States Senate, Committee on Rules and Administration, Room 305, Russell Senate Office Building, Washington, D.C. 20510.

BILLING CODE 0000-00-M

PRESIDENT'S COMMISSION ON PENSION POLICY

Report of Staff Contacts

The President's Commission on Pension has directed its staff to maintain and publish for the public record a listing of contacts of a substantive nature made with individuals, organizations and groups interested in the activities of the Commission.

The following is the staff report of such contacts for the month of July.

Ellen Goldstein, White House Domestic Policy Staff.
Valinda Jones and Merrill Randol, U.S. House of Representatives Select Committee on Aging Staff.
Jack Carroll and Charles Liniger, Social Security Administration.
The Financial Standards Accounting Board.
Dan Halperin and Gabe Rudney, U.S. Department of Treasury.
Stephanie Hollock, Portland State University Institute on Aging.
Pension Task Force of the National Conference of State Legislatures.
Joe Anderson, Scientific Time Survey.
Jim Ball, Arthur Andersen and Company.
Lee Webb, Council on Alternative State and Local Pension Funds.
Michael Barker, Council on State Planning Agencies.
E. R. Hoffman, General Mills, Inc.
Ted Bower, Sears Profit Sharing Fund.
Jon Posner, National Conference of State Legislatures.
Bob Davis, California Teachers Retirement System.
Pension Task Force, National Association of Counties.
Walter Holan, Profit Sharing Council of America.
Edwin Jones, Shea, Gould & Carey.
Dallas Salisbury, Employee Benefit Research Institute.
Rodger Smith, Greenwich Research.
Bary Barth, Office of Management and Budget.
Mark Sherwood, Bureau of Labor Statistics.
Judith Selvidge, Dept. of HEW.
Jack Besonsky, Office of Management and Budget.
Dwight Bartlett, Social Security Administration.
Victor Fonana, New York Bar Association.
Bernard Jump, Syracuse University.
Robert Jaques, Noble Lowndes International (London).
Martha Yohalem and Lois Alexander, Social Security Administration.
Dave Kennel, JCF, Inc.
Jonathan Sunshine, Office of Management and Budget.
Doug Sorensen, U.S. Dept. of Treasury.
Seymour Hayman, Dellwood Foods Corp., Yonkers, NY.

Signed at Washington, D.C. this 8th day of August 1979.

Thomas C. Woodruff,

Executive Director.

[FR Doc. 79-25107 Filed 8-14-79; 8:45 am]

BILLING CODE 6820-99-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-526]

Atlantic Pepsi-Cola Bottling Co., Inc.; Application and Opportunity for Hearing

August 7, 1979.

Notice is hereby given that Atlantic Pepsi-Cola Bottling Company, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") seeking an exemption from the reporting provisions of Sections 13 and 15(d) of that Act.

The Applicant states in part:

1. The Applicant was a publicly held company with a class of securities registered pursuant to Section 12(g) of the 1934 Act and was subject to the provisions of Sections 13 and 15(d) of that Act.

2. On March 29, 1979, with shareholder approval, the Applicant was merged with a wholly-owned subsidiary of Liggett Soft Drink Company, Inc. ("Liggett Soft Drink") pursuant to an agreement of merger (the "Merger").

3. As a result of the Merger, Applicant's shareholders each received $33.0475 in cash and one-tenth of a share of common stock of Atlantic Telecasting Corporation, a former wholly-owned subsidiary of the Applicant and all the issued and outstanding shares of common stock of the Applicant are now owned by Liggett Soft Drink.

4. After termination of its Section 12(g) registration statement on July 29, 1979, Applicant is subject to the reporting provisions of Section 15(d) of the 1934 Act.

In the absence of an exemption, Applicant will be required to file certain periodic reports with the Commission pursuant to Sections 13 and 15(d) of the 1934 Act, for the period from January 31, 1979, through the fiscal year ending January 31, 1980 including the Form 10-K report for the fiscal year ended January 31, 1979.

The Applicant contends that such filings are unnecessary for the protection of investors and represent an unreasonable burden upon the Applicant since Liggett Soft Drink now owns all of the Applicant's common stock, and its common stock is no longer publicly traded.

The Applicant contends that no useful purpose would be served in filing the periodic reports because none of its securities is publicly held, and its common stock is no longer publicly traded.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than September 4, 1979, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25159 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 10811; 812-4486]

The Capitol Life Insurance Co., et al.; Notice of Application for an Amended Order for Approval of Certain Offers of Exchange and for Exemptions

August 6, 1979.

Notice is hereby given that The Capitol Life Insurance Company ("Capitol Life"), a Colorado stock life insurer, Capitol Life Separate Account M (the "Separate Account"), a separate account of Capitol Life which is registered as a unit investment trust under the Investment Company Act of 1940 ("Act"), 1600 Sherman Street, Denver, Colorado 80203, Merrill Lynch High Income Fund, Inc. ("HI"), Merrill Lynch Basic Value Fund, Inc. ("BV"), Merrill Lynch Capital Fund, Inc. ("CF"), Merrill Lynch Special Value Fund, Inc. ("SV"), and Merrill Lynch Ready Assets Trust ("RA"), 165 Broadway, New York, NY 10080, (hereinafter collectively referred to as "Applicants"), filed an application on June 1, 1979, and an amendment thereto on August 1, 1979, pursuant to Section 11 of the Act for an amended Order approving certain offers of exchange, and pursuant to Section 6(c) of the Act for an amended Order of exemption from the provisions of Sections 26(a) and 27(c)(2) and an exemption from the provisions of Section 22(d) of the Act.

All interested persons are referred to the Application, as amended, on file with the Commission for a statement of the representations contained therein which are summarized below.

Previously, by application dated September 26, 1978, and an amendment thereto dated September 28, 1978, the Applicants, with the exception of BV, CF, SV and RA (hereinafter sometimes referred to collectively as "Additional Applicants"), applied for an Order (a) pursuant to Section 11 approving a proposed offer of exchange to the shareholders of HI, which was then the only medium for the Separate Account, whereby shareholders of HI would be allowed to continue their investment in HI shares in the form of a variable annuity contract issued by the Separate Account; and (b) pursuant to Section 6(c) of the Act for an exemption from the provisions of Sections 26(a) and 27(c)(2) to the extent necessary to allow the Separate Account to act as custodian of its own assets, providing that all such assets be held for safekeeping pursuant to an agreement between Capitol Life and the State Street Bank and Trust Company of Boston, Massachusetts ("Bank"). On September 29, 1978, a Notice was issued of the filing of said Application (Investment Company Act Release No. 10422) and an Order was issued on November 8, 1978, granting the relief requested in the Application (Investment Company Act Release No. 10474).

Applicant Capitol Life is a wholly-owned subsidiary of Providence Capitol Corporation and an indirect subsidiary of Gulf & Western Industries, Inc.

Applicant Separate Account was established by Capitol Life pursuant to Colorado law in connection with the proposed issuance of certain group and variable annuity contracts (hereinafter referred to collectively as "Contracts"). The Separate Account originally offered only one Contract calling for the investment of accumulation units in the shares of HI, and it is presently proposed that the Separate Account be operated as a Series investment company, each Series of which will invest in the shares of HI or a designated Additional Applicant.

The Additional Applicants and HI are each diversified, open-end management investment companies registered under the Act. HI, BV, and SV are managed by Fund Asset Management, Inc., a subsidiary of Merrill Lynch Asset Management, Inc. ("MLAM"), which in turn is a subsidiary of Merrill Lynch and Co., Inc. CF and RA are managed by MLAM. Each of the above (referred to herein collectively as "Funds" or individually as "Fund") has a currently effective registration statement under the Securities Act of 1933.

Both Individual and Group Contracts will be offered. Applicants propose that two categories of contracts will be offered to groups and individuals: Direct Purchase Contracts and Installment Purchase Contracts.

Direct Purchase Contracts will be offered to existing shareholders of BV, CF, HI and SV but will not be available to shareholders of RA. The minimum initial purchase payment is the value of 500 shares of the particular Fund to be exchanged for accumulation units in the Contract or Certificate. A uniform fixed exchange fee of $100 applicable to all exchanges of Fund shares is proposed to be deducted at the time an initial purchase payment is received for an Individual Contract or for a Certificate under a Group Contract. This exchange fee indicated to be allocated as follows: $20 for reimbursement of policy issue expenses and $80 for expected conversion expenses. That portion of the exchange fee is indicated to be allocated to converson expenses may be deemed to be a sales load for the purposes of Sections 2(a)(35) and 22(d) of the Act.

Applicants propose that under the Installment Purchase Contracts, the individual Contract Owner or the Participant in a Group Contact may elect to invest amounts in any one or all of the five Series of the Separate Account and if such an election is made, may systematically transfer to the Separate Account a portion of the General Account values initially allocated to provide fixed annuity benefits. A uniform 7% surrender charge is proposed to be imposed on all surrenders from the General Account, whatever the reason therefor, so that under an Installment Purchase Contract, an appropriate number of General Account accumulation units are cancelled and 93% of the value of those units are transferred to the Separate Account. Applicants state, however, that if there are no surrenders under the Contract, the 7% charge is restored with interest upon annuitization and is applied to provide fixed annuity benefits.

For the purpose of the Application, Applicants recognize that in the case of Installment Purchase Contracts, the difference between the amount surrendered from the General Account and the amount invested in the Separate Account might be deemed to be a sales load for purposes of Sections 2(a)(35) and 22(d) of the Act, even though such charge might be restored in full and with interest. While Applicants maintain that the 7% uniform surrender charge is not a sales load because it is imposed without reference to either the purpose of the surrender or the disposition of the amount surrendered, they agree to the assumption that for purposes of the Application such surrender charge is in the nature of a sales load within the context of Sections 2(a)(35) and 22(d) of the Act.

Under both Direct Purchase and Installment Purchase Contracts, Applicants propose to charge a fixed $10 fee against an individual's account for each transfer between Series of the Separate Account made pursuant to the written request of the Contract Owner or Participant.

With regard to Section 11, Applicants seek to amend and supplement the aforementioned Order to add BV, CF and SV as participants in the offers of exchange as approved by that Order and to permit the offer to individual

Contract Owners or Participants of the right to transfer or convert accumulation units from one Series to any other Series of the Separate Account, including the Series of the above investment companies and RA. In addition, Applicants seek to include the Additional Applicants in the exemptions previously granted pursuant to Section 6(c); and further to expand the exemptions previously granted pursuant to Section 6(c) to include an exemption from the provisions of Section 22(d) of the Act to the extent deemed necessary to permit the right to exchange shares of a Fund for accumulation units in a Series of the Separate Account and also to permit the transfer of amounts from General Account values to acquire Separate Account accumulation units.

Section 11

Section 11(a) of the Act, as here pertinent, provides that it is unlawful for any registered open-end investment company or principal underwriter thereof to make an offer to the holders of its securities (or of the securities of any other open-end company), to exchange his shares for the shares of the same or another such company on any basis other than the relative net asset values of the respective securities, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that Section 11(a) is applicable, in any event, to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants indicate that for Direct Purchase Contracts, the holders of shares of BV, CF, SV and HI would be able upon written request to transfer the net asset value of the particular Fund shares held toward purchase of a Contract which would be allocated to the Series represented by investment in the shares of that particular Fund. It is also stated that the exchange would be on the basis of net asset values of the securities to be exchanged, except for the $100 exchange fee deducted at the time of the exchange.

It is proposed that conversion between Series, available with respect to all of the five Series and under all types of Contracts, would occur upon written application of the Individual Contract Owner or Participant and would be based on the relative net asset values of the affected Series on the day the conversion is effected, less the $10 conversion fee.

The Applicants assert that the terms of the proposed right to exchange Series of BV, CF, SV and HI for accumulation units in the Series relating thereto and the right to convert between each of the Series are consistent with the protection of Contract Owners or Participants and the purposes clearly intended by the policy and provisions of Section 11 of the Act. Except as noted, the Applicants submit that the exchange will be at net asset value.

Section 22(d)

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company except at a current offering price described in the prospectus. Rule 22d–3 under Section 22(d), in substance, permits the sale of variable annuity contracts with variations in the sales load deductions, provided that the prospectus discloses such variations and the basis therefor, and provided further that such variations are not unfairly discriminatory.

In the case of Direct Purchase Contracts, the Application indicates that the $80 portion of the fixed $100 exchange fee, which $80 is for expected conversion expenses, would, to the extent deemed a sales load, represent a varying (rather than a constant) percentage of the total amount invested in each situation, so that a question is raised as to compliance with Section 22(d) of the Act. Likewise, under Installment Purchase Contracts, the uniform 7% surrender charge imposed on the amount surrendered from the General Account would, to the extent deemed a sales load, vary from the amount considered as a sales load under Direct Purchase Contracts, thus raising a further question as to compliance with Section 22(d).

Applicants submit that it is in the public interest, in the best interest of investors, and consistent with the protection of investors to grant an exemption form Section 22(d) of the Act to the extent necessary to permit the sales load variations described herein to occur in connection with the offer and sale of Contracts. In the case of Direct Purchase Contracts, Applicants submit that the $80 fixed charge for expected conversion expenses is fair to investors and non-discriminatory. Applicants assert that, since the expense involved in conversion is not directly related to the amount being invested in the Separate Account, a fixed charge is more appropriate than a percentage charge and also minimizes the expense to purchasers.

In the case of Installment Purchase Contracts, Applicants submit that, because the uniform 7% surrender charge is imposed on all surrenders from the General Account for any purpose, it is properly viewed as a traditional feature of a fixed annuity contract which is nondiscriminatory in application. Moreover, Applicants assert it to be wholly appropriate under the circumstances since it is intended to encourage annuitization of General Account values. Since the foregoing considerations are not present under a Direct Purchase Contract, which does not involve any General Account values, the sales load variations between Direct Purchase and Installment Contracts are, the Applicants submit, both justified and not unfairly discriminatory.

Accordingly, Applicants have requested an exemption from the provisions of Section 22(d) of the Act to the extent deemed necessary to permit the previously described variations in amounts which might be deemed a sales load for purposes of that Section. Applicants warrant that, if such and exemption is granted, the prospectuses used in the offer and sale of the Contracts will fully disclose all such variations as well as the circumstances under which they may occur.

Sections 26(a) and 27(c)(2)

Section 27(c)(2) of the Act, as here pertinent, prohibits the issuer of a periodic payment plan certificate and a depositor (or underwriter for such issuer) from selling such periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian, and held under an indenture or agreement containing specified provisions. Section 26(a) requires that such indenture or custodianship agreement must provide, *inter alia*, that the bank (i) shall have possession of all property of the unit investment trust and segregate and hold the same in trust subject only to the charges and collection specifically allowed under clauses (A), (B) and (C) of such Section until distribution to the security holders of the trust; (ii) shall not resign until the trust has been liquidated or a successor has been appointed; (iii) may collect from the income and, if necessary, from the corpus of the trust such fees for services provided for in the agreement; (iv) shall not allow as an expense any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

In the arrangement now existing pursuant to the Order set forth in Investment Company Act Release No. 10474, the Separate Account acts as custodian of its own assets (i.e., shares of HI); however, all such assets are held for safekeeping pursuant to an agreement between Capitol Life and the Bank.

Applicants state that although the Bank meets the qualifications prescribed in Section 26(a) of the Act, the agreement does not create a trust with respect to the assets of the Separate Account because Capitol Life, as a life insurance company, must retain ownership and control of the disposition of its property under Colorado law. The assets of the Separate Account will continue to be held for safekeeping by the Bank, the only difference being that the assets will be divided into five Series. In that the contracts proposed to be funded in Series BV, CF, SV and RA are not included within the terms of the Order issued in Investment Company Act Release No. 10474, an exemption is requested from the foregoing provisions of Sections 26(a) and 27(c)(2) of the Act to the extent necessary to make the requirements of a trust inapplicable to the Contracts issued by the additional Separate Account Series.

In support of such request, Applicants state that Capitol Life's agreement with the Bank provides that Capitol Life pay the expenses for the safekeeping of the Separate Account assets. Applicants also state that the ownership of shares of the Funds by the Separate Account will be held in an open account so that ownership of Fund shares by the Separate Account will only be indicated on the books of the Funds and Separate Account and not by the issuance of transferable stock certificates; and that, under the safekeeping agreement, otherwise, the assets of each Separate Account Series will be kept physically segregated by the Bank and held separate from the assets of any other firm, person, or corporation. The Bank will maintain a record of all purchases and redemptions of the Fund shares in each applicable Series of the Separate Account and will assist in the preparation of reports to the Commission.

Applicants further state that Capitol Life is subject to extensive supervision and control by the Colorado Insurance Commissoner and the comparable official of each state in which it does business; and that Capitol Life's activities are subject to constant review by the Colorado Insurance Department and its representatives at all times and are subject to comprehensive examination periodically. Applicants assert that a substitution of an underlying Fund of the Separate Account can only take place upon sound reasons by Capitol Life, as stated in the prospectus for the Separate Account, and then only upon a prior favorable vote of a majority of the votes having an interest in the Fund to be substituted and the prior approval of the Commission. Applicants finally state that Capitol Life maintains fidelity bonds covering its employees which provide coverage in the amount of $2,000,000.00. It is contended that the foregoing laws, regulations and arrangements will provide substantial assurance that all obligations under the Contracts issued by the Separate Account will be performed.

Applicants have consented that the exemption from Sections 26(a) and 27(c)(2) of the Act may be made subject to the following conditions: (1) that the deductions for administrative services shall not exceed such reasonable amount as the Commission shall prescribe, and the Commission may reserve jurisdiction for such purpose, and (2) that the payment of sums and charges out of the assets of the Separate Account shall not be determined to be exempted from regulation by the Commission by reason of the requested amended Order, provided that Applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Notice is further given that any interested person may, not later than August 31, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 31, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments of this matter, including the date of the hearing, if ordered and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25141 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21175; 70-6333]

Central Power & Light Co.; Proposed Acquisition of Coal Rail Cars

August 6, 1979.

Notice is hereby given that Central Power and Light Company ("CPL"), P.O. Box 2121, Corpus Christi, Texas 78403, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

CPL seeks authorization to acquire 347 coal rail cars pursuant to a September 18, 1978, contract with FMC Corporation. The rail cars will be used for transporting coal from Colorado to Unit No. 1 of CPL's Coleto Creek Station in Goliad County, Texas. The unit, planned for operation in early 1980, is to be supplied under a 25-year coal purchase contract, with deliveries of approximately 1,280,000 tons per year.

The 347 cars will be used in three unit trains, the first of which, consisting of 120 cars, is scheduled for delivery in September and October of 1979 and will have a 15-car reserve for maintenance and repair. The other two unit trains,

consisting of 227 cars, are scheduled for delivery in February and March of 1980 and will have a combined 17-car reserve for maintenance and repair. CPL intends that all of the rail cars will be used exclusively by it. It is stated that the 347 cars are presently estimated to be sufficient to transport the coal requirements of Unit No. 1 of the Coleto Creek Station.

The total estimated cost for the 347 cars is $15,773,000 (subject to adjustment). CPL intends to include the full amount of such costs in its rate base, subject to approval by applicable regulatory authorities.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $2,500, including legal fees of $300. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may not later than August 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such Rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25137 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21177; 70-6336]

Consolidated Natural Gas Co.; Proposal by Holding Company To Act as Surety on Bond of Public Utility Subsidiary Company

August 7, 1979.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a resgistered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

On April 23, 1979, Hope Natural Gas Company, a division of Consolidated's wholly-owned public utility subsidiary company, Consolidated Gas Supply Corporation ("Supply Corporation"), filed revisions in its rate schedules with the Public Service Commission of Wet Virginia providing for increased rates and charges approximating $7,000,000 per year for furnishing natural gas service in the state of West Virginia. By action of the state commission, the effectiveness of the new rates was suspended until October 28, 1979. The new rates may become effective on such date upon the filing by Supply Corporation of a bond, with satisfactory surety, in the amount of $7,000,000, for the payment of any customer refunds which the state commission may order. The state commission has indicated that Consolidated may act as surety on such bond. Consolidated proposes, without fee or other consideration, to act as surety on the bond of Supply Corporation to save the cost of securing an outside corporate surety.

The fees and expenses incurred by Supply Corporation in connection with the proposed transaction are estimated at $2,500, including charges of $500 for the services, at cost, of Consolidated Natural Gas Service Company, Inc., Consolidated's wholly-owned service company. The declaration states that nostate commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 6, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25139 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-542]

Cott Corp.; Application and Opportunity for Hearing

August 7, 1979.

Notice is hereby given that Cott Corporation (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order exempting it from the periodic reporting requirements under Section 13 and 15(d) of the 1934 Act.

The Application states:

(1) On December 12, 1978, Shareholders for the Applicant approved a Plan of Dissolution and Complete Liquidation of the Applicant at a special meeting, proxies for which were solicited in accordance with the requirements of Regulation 14A under the 1934 Act.

(2) The Applicant does not believe that any public interest will be served by requiring the filing of an Annual Report, on Form 10-K, since, as a result of the liquidation, these will no longer be any securities of the Applicant publicly traded.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person no later than September 4, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25156 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-548]

Dairy Queen Stores, Inc., Liquidating Trust; Notice of Application and Opportunity for Hearing

August 7, 1979.

Notice is hereby given that Dairy Queen Stores, Inc. Liquidating Trust ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 ("the 1934 Act"), for an order granting Applicant an exemption from Sections 13 and 15(d) of the 1934 Act, except for the requirement to file reports on Form 8-k, and the requirement to file a modified report on Form 10-k containing certified information with respect to the financial condition of the Liquidating Trust.

The Applicant states, in part:

1. Effective February 1, 1979, Dairy Queen Stores, Inc. and the First National Bank of Fort Worth entered into a trust agreement creating Applicant pursuant to which the principal assets of Dairy Queen Stores, Inc. were transferred to Applicant.

2. The certificates of beneficial interest in the Applicant were registered on Form 8-B.

3. Certificates of beneficial interest the Applicant will be non-transferable so there will be no trading market.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than September 4, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues and fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25156 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-563]

Kearney & Trecker Corp.; Notice of Application and Opportunity for Hearing

August 7, 1979.

Notice is hereby given that Kearney and Trecker Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On February 9, 1979 Applicant merged with a wholly-owned subsidiary of Cross and Trecker Corporation and thereby itself became a wholly-owned subsidiary of Cross and Trecker Corporation. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission its proxy statement dated December 13, 1978, containing audited financial statements for the year ended September 30, 1978, plus a consolidated summary of operations of Applicant for the five years ended September 30, 1978.

3. The common stock of Cross and Trecker Corporation is registered with the Commission pursuant to Section 12(g) of the 1934 Act.

4. The results of the Applicant's operations for the fiscal year ended September 30, 1979 will be reflected in the Form 10-K and annual report to shareholders of Cross and Trecker Corporation for fiscal 1979.

In the absence of an exemption, Applicant is required to file reports pursuant to Sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder for the fiscal year ending September 30, 1979. Applicant believes that its request for an order exempting it from the reporting provisions of Sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that the Applicant believes that the time, effort and expense involved in the preparation of additional periodic reports will be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person not later than September 4, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communicaiton or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time, after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25135 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10810; 811-99]

Keystone Custodian Fund, Series S-2; Application for an Order Declaring That Company Has Ceased To Be an Investment Company

Notice is hereby given that Keystone Custodian Funds, Inc. ("Keystone"), 99 High Street, Boston, Massachusetts 02110, as trustee for Keystone Custodian Fund, Series S-2 ("Fund"), filed an application pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act") on March 5, 1979, and amendments thereto on July 10, 1979, and July 26, 1979, for an order of the Commission declaring that the Fund, a diversified open-end management investment company registered under the Act which was organized as a common law trust under the laws of the Commonwealth of Pennsylvania, has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commision for a statement of the representations contained therein, which are summarized below.

The application states that on March 16, 1977, the Keystone board of directors, acting on the Fund's behalf, authorized the execution and delivery of an Agreement and Plan of Reorganization ("Plan") between Keystone as trustee for the Fund and Keystone as trustee for Keystone Custodian Fund, Series S-1 (the "S-1 Fund"). Holders of more than 50 percent of the outstanding shares of the Fund gave their approval in writing, without a meeting, to the transactions contemplated by the Plan, and on June 27, 1977, the Fund transferred substantially all of its assets to the S-1 Fund in exchange for shares of the S-1 Fund.

The application states that in connection with the merger, two types of distributions were made to the Fund's shareholders. On June 15, 1977, Keystone, acting on behalf of the Fund, paid to shareholders of record on June 10, 1977, a dividend from taxable income of the Fund equal to substantially all such income undistributed as of June 10, 1977, the record date. On June 27, 1977, the Fund received 3,091,344 shares of the S-1 Fund in exchange for its assets, for distribution on a pro rata basis to its shareholders in accordance with the Plan. In accordance with the Plan, shareholders of the Fund each received an appropriate number of S-1 Fund shares which were credited to a special custodian account in the shareholder's name with Keystone. As each shareholder of the Fund surrenders his certificates, he receives certificates from Keystone representing full shares of the S-1 Fund and cash equal to the redemption price at that time of any fractional shares. In addition, shareholders of the Fund whose shares were held in an Open Account Plan has S-1 Fund shares, including any fractional shares, credited to an S-1 Open Account Plan in their name in exchange for the shares of the Fund held thereunder. The application states that an Open Account Plan is a book entry recordkeeping system maintained by the Fund's transfer agent on behalf of participating shareholders evidencing each such shareholder's ownership of shares and that certificates are not issued under this arrangement and dividends reinvested as shares are automatically entered in each shareholder's account record.

The application states that as of January 31, 1979, 825 shareholders holding certificates or holding shares in Open Account Plans for an aggregate of 150,869 shares of the Fund out of 5,849,621 shares of the Fund outstanding as of June 24, 1977, had not surrendered their certificates for shares of the S-1 Fund or had not communicated their instructions to Keystone. The application states that as of January 31, 1979, each S-1 Fund share had a net asset value of $17.70 per share and on that date the total value of all shares for which certificates have not been surrendered nor instructions received was $2,670,381.50. The application states that the undistributed S-1 Fund shares held by Keystone on behalf of shareholders who had not surrendered their Fund certificates are being held in Keystone's vaults, as are all undeliverable dividend checks owing to such shareholders. The application indicates that because undelivered dividends are retained in check form and held by Keystone, they earn no interest. The application states that S-1 Fund shares held in unexchanged certificates and held under Open Account Plans, as well as undelivered dividends, may be subject to the abandoned property laws of the states. In addition, such shareholder property may be subject to attachment and execution creditors of each such shareholder.

The application states that communications were originally mailed to shareholders who had not surrendered their certificates on July 7, 1977. Additional correspondence was mailed on August 5, 1977, August 26, 1977, September 15, 1977, and October 19, 1977. The application states that continuing efforts are being made by correspondence and by telephone, to induce such shareholders to surrender their certificates.

The application further states that the Fund has held no assets since June 27, 1977, that the S-1 Fund assumed all liabilities of the Fund on June 27, 1977, and that no further debts or liabilities have accrued since June 27, 1977. The application states that the Fund is not a party to any pending litigation or administrative proceedings. The application also states that the Fund has terminated all business activities and is no longer engaged and does not propose at any time in the future to engage in the business of investing, reinvesting, holding or trading in securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 27, 1979 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by addidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who requests a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25140 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-551]

MBPXL Corp.; Application and Opportunity for Hearing

August 7, 1979.

Notice is hereby given that MBPXL Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to Section 15(d) of the 1934 Act.

The Applicant states in part:

1. The Applicant was a publicly-held company with a class of securities registered pursuant to Section 12(b) of the 1934 Act, and was subject to the reporting provisions of Section 15(d) of the 1934 Act.

2. On March 1, 1979, the Applicant was merged with and into a wholly owned subsidiary of Cargill Incorporated.

3. As a result of the merger there is no trading in Applicant's securities all of which are held of record by Cargill, Incorporated.

In the absence of an exemption, Applicant will be required to file certain periodic reports with the Commission including a Form 10–Q report by June 16, 1979 and a Form 10–K report by August 29, 1979 pursuant to Section 15(d) of the 1934 Act.

The Applicant contends that no useful purpose would be served in filing the periodic reports because Cargill, Incorporated now owns all of the Applicant's common stock, and its common stock is no longer publicly traded.

For a more detailed statement of the information presented, all persons are referred to said application which is on filed in the Office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than September 4, 1979, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such infomation or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as the whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25153 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-492]

MCI Liquidating Co., Inc.; Application and Opportunity for Hearing

August 7, 1979.

Notice is hereby given that MCI Liquidating Company, Inc. ("MCI" or "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") seeking an exemption from the reporting provisions of Sections 13 and 15(d) of that Act.

The Applicant states in part:

1. MCI was a publicly-held company with class of securities registered pursuant to Section 12(g) of the 1934 Act, and was subject to the provisions of Sections 13 and 15(d) of that Act.

2. As of February 2, 1979, with shareholder approval the Applicants assets were sold, and a plan of dissolution was put into effect.

3. Since the sale of assets, the Applicant's stock transfer books have been closed and there has been no public trading of its common stock.

4. MCI has distributed all the proceeds of the sale except for a reserve of 50¢ per share to discharge contingencies or other claims.

In the absence of an exemption, Applicant will be required to file certain periodic reports with the Commission for the periods ending in 1979 and an annual report on Form 10–K for the fiscal year ended December 31, 1978.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than September 4, 1979, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in the matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25155 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-547]

Memphis Trust Co.; Application and Opportunity for Hearing

August 7, 1979.

Notice is hereby given that Memphis Trust Company ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the provisions of Section 15(d) of that Act.

The Application states in part:

1. On April 10, 1979 Applicant's stockholders approved a Plan of Recapitalization in the form of a one-for-500 reverse stock split. As a result of the plan, Applicant now has only 168 stockholders.

1. Applicant will furnish to its stockholders annually audited financial statements and quarterly unaudited financial summaries. In addition, Applicant, as a bank holding company regulated by the Federal Reserve Board whose principal subsidiary is a commercial bank regulated by federal and state banking authorities, is required by such banking laws to make

certain financial and other information available to stockholders.

3. On June 29, 1979 Applicant's registration under Section 12(g) of the 1934 Act was terminated.

In the absence of an exemption, Applicant would be required to file periodic reports for the year ending December 31, 1979. Applicant believes that its request for an order exempting it from the reporting provisions of Section 15(d) of the 1934 Act is appropriate inasmuch as Applicant now has only 168 shareholders and will furnish to its stockholders annually audited financial statements and quarterly unaudited financial summaries in addition to the financial and other information it must make available to stockholders pursuant to federal and state banking laws.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person, not later than September 4, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25152 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21176; 70-6325]

Public Service Co. of Oklahoma; Proposed Acquisition of Coal Rail Cars

August 6, 1979.

Notice is hereby given that Public Service Company of Oklahoma ("PSO"), P.O. Box 201, Tulsa, Oklahoma 74102, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed with this Commission an application and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

PSO seeks authorization to acquire 726 coal rail cars pursuant to a September 30, 1976, contract with FMC Corporation. The rail cars will be used for transporting coal from Wyoming to Unit Nos. 3 and 4 of PSO's Northeastern Station in Rogers County, Oklahoma. The units, planned for operation in August 1979 and June 1980, respectively, are to be supplied under a 16-year coal purchase contract, with deliveries of approximately 1,500,000 tons per unit per year.

The 726 cars will be used in six unit trains, the first of which, consisting of 133 cars, was delivered in March 1979. Deliveries of unit trains of 132 and 124 cars were made in July 1979, and deliveries of the remaining unit trains of 120, 110 and 107 cars are scheduled to be made in August 1979 through March 1980. PSO intends that all of the rail cars will be used exclusively by it. It is stated that the 726 cars are presently estimated to be sufficient to transport the coal requirements of Unit Nos. 3 and 4 of the Northeastern Station.

The total estimated cost of the 726 cars is $27,162,680 (subject to adjustment). PSO intends to include the full amount of such costs in its rate base, subject to approval by applicable regulatory authorities.

The fees and expenses to be incurred in connection with the proposed transaction are etimated at $2,500, including legal fees of $300. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may not later than August 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such Rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25136 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-531]

Tiffany & Co.; Application and Opportunity for Hearing

August 7, 1979.

Notice is hereby given that Tiffany & Co. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the provisions of Sections 13 and 15(d) of that Act.

The Application states, in part:

1. The Applicant became a wholly-owned subsidiary of Avon Products, Inc. ("Avon") on April 25, 1979 pursuant to an Agreement and Plan of Merger dated February 5, 1979 between the Applicant, Avon, and Novat Enterprises, Inc., a wholly-owned subsidiary of Avon;

2. As a result of the merger, Avon has become the sole shareholder of the Applicant;

3. Since April 25, 1979, the effective date of the merger, there has been no public trading of the Applicant's common stock, par value $1.00 per share, which stock is the only equity security of the Company; and

4. The Applicant believes that a grant of its application would not be inconsistent with the public interest or the protection of investors.

In the absence of an exemption, Applicant would be required to file reports on Form 10–Q for the quarters ended April 30, July 31, and October 31, 1979, and a report on Form 10–K for the fiscal year ended January 31, 1980.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L St., N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than September 4, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in the matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25157 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-556]

Washington Steel Corp.; Application and Opportunity for Hearing

August 7, 1979.

Notice is hereby given that Washington Steel Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the provisions of Sections 13 and 15(d) of that Act.

The Application states, in part:

1. On March 9, 1979, WS–B, Inc. ("WS–B"), a Delaware corporation and a wholly-owned subsidiary of Blount, Inc. ("Blount"), commenced a cash tender offer for any and all shares of the Applicant's common stock.

2. As a result of the tender offer, WS–B acquired 90% of the outstanding shares of common stock of the Applicant.

3. On June 15, 1979 the Applicant's shareholders approved a merger agreement whereby the Applicant was merged into WS–B. Pursuant to the terms of the merger, each outstanding share of Applicant's common stock (other than shares owned by WS–B) was converted into the right to receive $40 in cash.

4. As a result of the merger, WS–B became the sole shareholder of the Applicant and the Applicant thereby became a wholly-owned subsidiary of Blount.

In the absence of an exemption, Applicant would be required to file a report on form 10–0 for the period ended June 30, 1979 and a Form 10–K for the year ending September 30, 1979. Applicant believes that its request for an order exempting it from the reporting provisions is appropriate since it no longer has any public shareholders, and the time, effort and expense involved in preparation of the report would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than September 4, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25136 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-555]

Western Publishing Co., Inc.; Application and Opportunity for Hearing

August 7, 1979.

Notice is hereby given that Western Publishing Company, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") seeking an exemption from the reporting requirements of Sections 13 and 15(d) of the Exchange Act.

The Applicant states in part:

1. The Applicant is a publicly-held company with a class of securities registered pursuant to section 12(g) of the 1934 Act, and is thus subject to the reporting provisions of Section 13 of the 1934 Act.

2. On June 15, 1979, the Applicant consummated a merger with Mattel, Inc. pursuant to an Agreement and Plan of Merger dated April 6, 1979.

3. As a result of the sale, all the issued and outstanding shares of common stock of the Applicant were exchanged either for 1.134 shares of Mattel's $25 Series A convertible preferred stock or $28.35 in cash. All issued and outstanding preferred shares of the Applicant were converted into, and became rights to receive $110 per such share.

In the absence of an exemption, Applicant will be required to file certain periodic and other reports with the Commission. The Applicant contends that no useful purpose would be served in continuing its obligation to file reports because it has no securities outstanding, there is no investment interest in it as a separate corporate entity and consequently, it has no shareholders to whom it must report.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Offices of the Commission at

1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than September 4, 1979, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-25154 Filed 8-14-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0349]

New Court Ventures, Inc.; Surrender of License

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administation's Rules and Regulations governing Small Business Investment Companies (C.F.R. 107.105 (1978)), New Court Ventures, Inc. (NVI), One Rockfeller Plaza, New York, New York 10020 incorporated under the laws of the State of New York has surrendered its license No. 02/-02-0349 issued by the SBA on June 20, 1978.

NVI has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above cited regulation, the license of NVI is hereby accepted and it is no longer licesned to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-25191 Filed 8-14-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/213]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on bulk chemicals of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on August 30, 1979 in Room 1303 of the Department of Transportation's Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20590.

The purpose of this meeting will be to discuss the agenda for the sixth session of the IMCO Subcommittee on Bulk Chemicals. Major items on the agenda are:

a. Applicability of TSPP segregated ballast and inert gas requirements to chemical tankers;

b. Procedures and arrangements for the discharge of noxious liquid substances;

c. Carriage of Annex I and Annex II substances as mixtures;

d. Simultaneous carriage of Annex I and Annex II substances on one ship;

e. Handling of liquid chemicals and liquefied gases in bulk;

f. Extension of the Bulk Chemical Code to cover pollution aspects;

g. Harmonization of the Bulk Chemical Code with the Gas Carrier Code; and

h. Carriage of bulk chemicals in cargo tanks of dry cargo ships.

Requests for further information should be directed to Mr. Frits Wybenga, U.S. Coast Guard (G-MHM-1/TP14), Washington, DC 20590, telephone: (202) 426-1217.

The Chairman will entertain comments from the public as time permits.

John Lloyd III,

Acting Director, Office of Maritime Affairs, Department of State.

August 10, 1979.

[FR Doc. 79-25146 Filed 8-14-79; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/212]

Advisory Committee on the 1979 World Administrative Radio Conference; Meeting

The Department of State announces that the Advisory Committee on the 1979 World Administrative Radio Conference (WARC) will meet on September 5, 1979 beginning at 1:30 p.m. in the Loy Henderson Conference Room (Room 1309) of the Department of State, 2201 C Street NW., Washington, D.C. This will be a joint meeting with the members of the U.S. Delegation to the WARC.

The Committee assists in the formulation of U.S. Government positions for the conference which will be held in Geneva in September 1979. It reports to its Chairman, Mr. Glen O. Robinson, who also serves as Chairman of the U.S. Delegation to the WARC.

The principal purpose of the meeting will be to discuss the status of U.S. positions for the conference. Other items on the agenda of the meeting include a report on recent bilateral consultations in preparation for the conference; and reports from the five Advisory Committee working groups.

Members of the public may attend the meeting and join in the discussions, subject to instructions of the Chairman. Admittance of public observers will be limited to the seating available.

Before the meeting on September 5, members of the public wishing to atten should communicate their name and address to Mr. Wilson Dizard, WARC Delegation Staff, Office of International Communications Policy, Department of State, Washington, D.C. 20520. Mr. Dizard can be reached by telephone at (Area Code 202) 632-2631.

Dated: August 3, 1979.

Glen O. Robinson,

Chairman, Advisory Committee on the 1979 World Administrative Radio Conference.

[FR Doc. 79-25105 Filed 8-14-79; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Grain Oriented Silicon Electrical Steel From Italy; Termination of Countervailing Duty Investigation

AGENCY: U.S. Treasury Department.

ACTION: Termination of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that the countervailing duty investigation concerning grain oriented silicon electrical steel from Italy is being

terminated. The termination is based on the withdrawal of the countervailing duty petition, as detailed in the body of this notice and appendices thereto.

EFFECTIVE DATE: August 15, 1979.

FOR FURTHER INFORMATION CONTACT: Linda F. Potts, Assistant Director, Office of Tariff Affairs, U.S. Treasury Department, 15 & Pennsylvania Avenue, N.W. Washington, D.C. 20220, telephone (202) 566–2951.

SUPPLEMENTARY INFORMATION: On November 11, 1977 petitioner(s) submitted information alleging that payments or bestowals conferred by the Government of Italy upon the manufacture, production or exportation of grain oriented silicon electrical steel by Terni Societa per l'Industria e l'Elettricita, S.p.A. ("Terni") constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act"). On April 25, 1978 a "Notice of Receipt of Information and Initiation of Countervailing Duty Investigation" was published in the **Federal Register** (43 FR 17560). On February 14, 1979 a "Notice of Preliminary Countervailing Duty Determination" was published in the **Federal Register** (44 FR 9638–9639). That notice stated that it had been preliminarily concluded on the basis of the information available at that time that a producer and exporter to the United States of grain oriented silicon electrical steel (Terni) did not receive from the Government of Italy benefits which are bounties or grants under the countervailing duty law.

Grain oriented silicon electrical steel is provided for in the Tariff Schedules of the United States under item numbers 608.88 and 609.07.

Counsel for petitioner submitted a letter dated August 2, 1979 indicating that the petitioner would withdraw this petition if the Treasury agreed with certain understandings concerning, *inter alia*, petitioner's right to refile its petition and the Treasury's monitoring of increases in the share capital of Finsider and Terni and the extent to which such increases might benefit the production of grain oriented silicon electrical steel. On August 2, 1979 the Treasury Department confirmed these understandings in a letter and on August 3, 1979, counsel for the petitioners submitted a letter formally withdrawing the petition. These letters are reproduced as appendices to this notice.

Accordingly, I hereby conclude, based upon the withdrawal of the countervailing duty petition, it is appropriate to terminate this investigation. This termination is without prejudice to the filing of a subsequent countervailing duty petition concerning the same merchandise.

David R. Brennan,

Acting General Counsel of the Treasury.

August 7, 1979.

Re: Armco Inc., Countervailing Duty Complaint: *Grain Oriented Silicon Electrical Steel from Italy.*

Patton, Boggs & Blow,
2550 M Street, N.W.
Washington, D.C. 20037
(202) 457–6000
Attorney's Direct Dial, (202) 457–6030
August 2, 1979.

Peter D. Ehrenhaft, Esquire, Deputy Assistant Secretary for Tariff Affairs
Room 3424, Department of the Treasury, 15th and Pennsylvania NW., Washington, DC 20220.

Dear Mr. Ehrenhaft: On October 11, 1977, the Treasury Department published a final determination in connection with the investigation of Armco's allegations that the manufacture of grain oriented silicon steel by Terni Societe per l'Industria e l'Elettricita, S.p.A. ("Terni"), had benefited from bounties or grants within the meaning of § 303 of the Tariff Act of 1930, as amended (19 U.S.C. § 1303). The Treasury determination concluded that the capitalization of Terni by its parent, Finsider, S.p.A., under the circumstances then known did not constitute a bounty or grant. However, the notice stated:

"Of course if, in the future, the Italian government should either through IRI or otherwise, increase Finsider's available funds, on other than terms that may reasonably be regarded as commercial, this conclusion may require consideration."

Immediately after this notice, Armco, on November 11, 1977, submitted informatoin indicating that the Istituto per la Ricostruzione Industriale ("IRI") had undertaken to purchase newly issued Finsider shares with a par value of lire 500 per share at a time when the stock market value of such shares was lire 85 per share. Based on this information, Treasury reopened an investigation of grain oriented silicon steel from Italy which focused on the Finsider and Terni recapitalizations.

In the course of the investigation, Armco also advised Treasury that a recapitalization of Terni had occurred on April 26, 1978, whereby Finsider agreed to purchase newly issued Terni shares at lire 300 per share at a time when the stock market price was lire 60 per share.

In its preliminary determination published on February 14, 1979, Treasury decline to find, based on information *then available*, , that the Finsider and Terni recapitalizations were a bounty or grant under § 303 as then in effect. However, Treasury also gave notice that it "will continue to monitor future actions by Finsider along these lines."

On July 26, 1979, the President signed the Trade Agreements Act of 1979 which amends the Countervailing Duty Law in several pertinent respects. While a material injury test has been added in the case of dutiable imports, the Act also defines subsidy to include "the provision of capital, loans or loan guarantees on terms inconsistent with commercial considerations" when "provided or required" by government action to an enterprise or industry whether publicly or privately owned.

Armco has not been persuaded by Treasury's prior determinations and believes that it has presented evidence that the recapitalizations of Finsider and Terni, as alleged, were inconsistent with commercial considerations and constitute a subsidy within the meaning of both § 303 of the Tariff Act of 1930 and § 771(5)(b) of the Tariff Act of 1930 as amended by the Trade Agreements Act of 1979. Armco further believes that in Treasury's prior determinations in this case the potential for such subsidization practices was recognized in the expressed commitment to monitor future recapitalizations of Finsider and Terni.

Nevertheless, relying on the government's expressed commitment to deal forcefully and effectively with foreign subsidy practices which violate the new international Codes and the Trade Agreements Act of 1979—and in recognition of the fact that there have been no importations of grain oriented silicon electrical steel from Italy during the first five months of 1979—Armco now considers it appropriate to withdraw its Petition of November 11, 1977, if Treasury accepts and expressly acknowledges the following:

(i) The withdrawal of the Armco Petition is without prejudice, and without any final determination.

(ii) Treasury will continue to monitor, for a period of two years after the Petition is withdrawn, increases in the share capital of Finsider and Terni and the extent to which such increases benefit the production of grain oriented silicon steel.

(iii) If the remainder of the funds by which IRI has agreed to increase the share capital of Finsider are received by that company and invesed in one or more of its subsidiaries, Treasury will evaluate the extent to which the receipt by Finsider of such a capital infusion has, directly or indirectly, benefited Terni and the extent to which such receipt benefits Terni's production of grain oriented silicon electrical steel.

(iv) Treasury will provide Armco, at its request, with statistical information on the level and price of imports of silicon electrical steel for a period of two years after the Petition is withdrawn.

(v) The Treasury files pertaining to the grain oriented steel investigation will be retained for at least five years from the date on which the Petition is withdrawn.

(vi) Any subsequent filing by Armco of a petition to reopen the proceeding will be processed expeditiously. In any such investigation, Treasury will utilize the retained files together with any information acquired during the process of monitoring Terni and Finsider capitalizations and imports of silicon electrical steel.

(vii) Treasury will seek to insure that a successor agency, if any, will abide by the foregoing.

If you will furnished me with a written acceptance of the points stated above, Armco will promptly give you a letter confirming the withdrawal of its Petition.

Sincerely,

Charles Owen Verrill, Jr.,

Counsel for Armco Inc.

Department of the Treasury,
Washington, D.C., August 2, 1979.

Charles Verrill, Esq.,
Patton, Boggs & Blow, 2550 M Street NW., Suite 800, Washington, D.C.

Dear Mr. Verrill: Thank you for your letter of today concerning Armco Corporation's willingness to withdraw its pending countervailing duty petition with respect to grain oriented silicon steel from Italy.

The General Counsel of the Treasury Department has authorized me, by this letter, to accept the conditions of withdrawal cited in your letter. In that connection, please note that we understand Treasury's commitments under paragraphs (ii), (iii) and (iv) to be limited to obtaining the information there described, primarily from public sources, and placing such data in the public files of this case at the Department. The Treasury will, of course, also consider the information so obtained in discharging its responsibilities pursuant to § 702 of the recently-enacted Trade Agreements Act of 1979.

Accordingly, if you will provide me with your formal notice of withdrawal, the case will be terminated and notice of that fact will be published promptly in the **Federal Register.**

Sincerely,

Peter D. Ehrenhaft,

Deputy Assistant Secretary and Special Counsel (Tariff Affairs).

Patton, Boggs & Blow,
Washington, D.C., August 3, 1979.

Mr. Peter D. Ehrenhaft, Esq.,
Deputy Assistant Secretary for Tariff Affairs, Department of the Treasury, Washington, D.C.

Dear Mr. Ehrenhaft: In consideration of your letter of August 2, 1979, Armco, Inc., hereby withdraws its Countervailing Duty Peition with respect to grain oriented silicon steel from Italy.

Sincerely,

Charles Owen Verrill, Jr.,

Counsel for Armco, Inc.

[FR Doc. 79-25197 Filed 8-14-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 137]

Motor Carrier Temporary Authority Applications

July 30, 1979.

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 protest to an application may be filed with the field official named in the **Federal Register** publication no later then the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

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

Motor Carriers of Property

MC 200 (Sub-366TA), filed April 27, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City MO 64106. Representative: Ivan E. Moody, 903 Grand Ave., Kansas City, MO 64106. *Common Carrier:* regular route: *Catalogs, Magazines, and Printed Paper and Supplies and Materials used in the production and distribution thereof* (except commodities in bulk), serving Kokomo, IN as an intermediate point on US Hwy 31 and off-route point in connection with applicant's regular route authority on US 40, US 24 and US 52 (applicant seeks to substitute single line service in place of two line hauls), for 180 days. Supporting shipper: World Color Press, 1125 E. Vaile Ave., Kokomo, IN 46901. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 340 (Sub-58TA), filed July 5, 1979. Applicant: QUERNER TRUCK LINES, INC., 1131–33 Austin Street, San Antonio, TX 78208. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. *Liquors malt (beer), empty containers (returnable glass bottles, wooden pallets, corrugated cardboard separators, load locks (bracing devices))* from St. Louis, MO and commercial zone to LA, OK, TX, AL, & FL; and Chicago, IL for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Anheuser Busch, Inc., 721 Pestalozzi St., St. Louis, MO 63118. Send Protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 531 (Sub-411TA), filed 7–3–79. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., Houston, TX 77021. Representative: Wray E. Hughes (same as applicant). *Liquid foundry coring compound,* in bulk, in tank vehicles from Muse, PA to Birmingham, AL, Chattanooga, IN, Fort Worth, TX, Waggmann, LA and Atlanta, GA for 180 days. Supporting shipper(s): C. E. Cast Industrial Products, 4360 Powell Ave., Birmingham, AL 35222. Send protests to: John F. Mensing, DS, ICC, 515 Rusk #8610, Houston, TX 77002.

MC 720 (Sub-69TA), filed July 2, 1979. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman, P.O. Box 227, Waupun, WI 53963. *Such commodities as are dealt in by department stores, variety houses, and catalog order houses* from facilities of J. C. Penney Co., Inc. at or near Wauwatosa, WI to points in IN & MI, restricted to traffic originating at the named origin and destined to the named states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. C. Penney Co., Inc., 11800 W. Burleigh St., Milwaukee, WI 53222. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 3281 (Sub-13TA), filed June 22, 1979. Applicant: POWELL TRUCK LINE, INC., 800 S. Main St. Searcy, AR 72413.

Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Underlying ETA sought corresponding authority for 90 days. Printed, engraved, or lithographed cards and items used in the sale and display thereof, between Osceola, AR on the one hand, and on the other, Little Rock, AR and Memphis, TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Greetings Corporation, Osceola, AR 72370. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 4941 (Sub-51TA), filed July 5, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello St., Brockton, MA 02403. Representative: Mr. Russell S. Callahan (same address as applicant). *Retail department store merchandise* (1) from the facilities of Zayre Corp. at Mansfield, MA to points in MD, NY, PA and VA, and (2) from the facilities of Zayre Corp. at Clinton, MA to points in NY and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zayre Corp., Framingham, MA 01701. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 4941 (Sub-52TA), filed July 6, 1979. Applicant: QUINN FREIGHT LINES INC., 1093 North Montello St., Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). *Paper and paper products* from the facilities of Diamond International Corporation, Penobscot Division at Bangor and Old Town, ME to points in MD, PA and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Penobscot Division of Diamond International Corporation, 333 Bolivia St., Canton, MA 02021. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 6031 (Sub-52TA), filed June 28, 1979. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 E. National Ave., Milwaukee, WI 53204. Representative: Wm C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Contract carrier; irregular routes; (1) *Castings* from facilities of Waupaca Foundry, Inc., at Waupaca, WI to points in IL on and north of IL Hwy. 17 and (2) *foundry supplies* from points named in (1) above to facilities of Waupaca Foundry, Inc., at Waupaca, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Waupaca Foundry, Inc., Waupaca, WI. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 6031 (Sub-53TA), filed July 5, 1979. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 E. National Ave., Milwaukee, WI 53204. Representative: Wm. C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Contact carrier; irregular routes; *Fiberglas insulation and materials and supplies used in the installation of insulation* from facilities of Central Glass Insulations, Inc., at Milwaukee, WI to Grand Haven, MI and points in MI within a 30-mile radius of Grand Haven, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Glass Insulation, Inc., 5629 W. Woolworth Ave., Milwaukee, WI 53218. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 6461 (Sub-22TA), filed May 21, 1979. Applicant: B-LINE TRANSPORT CO., INC., 7100 E. Broadway, Spokane, WA. Representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, OR 97205. *Concrete products, except in bulk, in tank vehicles,* from the facilities of Central Pre Mix Concrete Co. located in Spokane County, WA to the ports of entry on the International Boundary between the U.S. and Canada located at or near Northport and Metaline Falls, WA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Central Pre-Mix Concrete Co., P.O. Box 3366 T.A., Spokane, WA 99220. Send protests to: Shirley M. Holmes, T/A, ICC 858 Federal Bldg., Seattle, WA 98174.

MC 8771 (Sub-55TA), filed July 5, 1979. Applicant: SAW MILL SUPPLY, INC., 1018 Saw Mill River Road, Yonkers, NY 10710. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg.—425, 13th St., Washington, D.C. 20004. *Metal cutting machinery,* from Belvidere, IL, to points in TX, PA, KY, WA, NJ, OH, IA, and CA; for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): White Sunstrand Machine Tool, Inc., 3615 Newburg Road, Belvidere, IL 61008. Send protests to: Maria B. Kejss, Transporting Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 13471 (Sub-10TA), filed June 26, 1979. Applicant: WILEY'S AUTO EXPRESS, INC., Oak Lane & MacDade Blvd., Glenolden, Pa 19036. Representative: Fred E. Wiley, Jr. (same address as applicant). *Contract carrier, irregular routes: Petroleum products in containers and articles used or sold in service stations from* Philadelphia, PA on the one hand to points in OH, and New Martinsville, WV and Morganstown, WV; and obsolete and *rejected products, used service station equipment* from points in OH, New Martinsville, WV, Morgantown, WV to Philadelphia, PA for 180 days. Supporting shipper(s): Gulf Oil Company, Houston, TX 77001. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 13700 (Sub-9TA), filed June 21, 1979. Applicant: ROOKS TRANSFER LINES, INC., 650 East 16th Street, Holland, MI 49423. Representative: Neil R. Wimbush, 650 East 16th Street, Holland, MI 49423. Common Carrier by motor vehicle over regular routes transporting: General Commodities except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, livestock, commodities in bulk and those requiring special equipment; between Chicago, IL and Milwaukee, Racine and Kenosha Counties and the Milwaukee Commercial Zone in connection with carriers regular route operations. Applicant intends to tack and interline. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 36 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933

MC 16831 (Sub-28TA), filed June 11, 1979. Applicant: MID SEVEN TRANSPORTATION COMPANY, 2323 Delaware Ave., Des Moines, IA 50317. Representative: Wm. L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Steel* fr Waukegan and Alton, IL; Muncie, IN and Fostoria, OH to Adel, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Iowa Springs Manufacturing, Inc., 2611 Dean Ave., Des Moines, IA 50306. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 17600 (Sub-5TA), filed June 27, 1979. Applicant: PARAMOUNT MOVING & STORAGE CO., INC., 3 Commercial Ave., Garden City, NY 11530. Representative: Herbert Burstein, Suite 2373—One World Trade Center, New York, NY 10048. *Household goods as defined by the Commission,* between points in the states of NY and NJ, on the one hand, and, on the other, points in the states of AZ, CA, NM, NV and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 20 shippers. Their statements may be examined at the office listed below and headquarters. Send protests

to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 21060 (Sub-21TA), filed June 5, 1979. Applicant: IOWA PARCEL SERVICE, INC., 3123 Delaware Ave., Des Moines, IA 50309. Represenatative: Harold W., Sternberg (same as applicant). *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 all points in IA; Omaha, NE; and Rock Island County, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 19 supporting shippers on file in the Washington, D.C. office and the office listed below. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 28060 (Sub-54TA), filed July 10, 1979./ Applicant: WILLERS, INC., d.b.a. WILLERS TRUCK SERVICE, 1400 N. Cliff Avenue, Sioux Falls, SD 57101. Representative: Marc A. Pearl, 3390 Peachtree Road, Lenox Towers South, 5th Floor, Atlanta, GA 30326. *Meats, meat products, meat by-products and articles distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk)* from the facilities of Cornhusker Packing Co., Omaha, NE to the facilities of Feilen Meat Co., Des Moines, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Feilen Meat Co., 7th & Corning, Des Moines, IA 50301. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 29910 (Sub-218TA), filed July 12, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11 St., Ft. Smith, AR 72901. Representative: Don A. Smith P.O. Box 43, Ft. Smith, AR 72902. *Cement asbestos pipe and equipment and materials* used in the installation thereof (except in bulk, in tank vehicles), (1) from the facilities of Cement Asbestos Products Company, a subsidiary of ASARCO, INC at or near Van Buren, AR to points in the U.S. (except IL, IN, OH, WI, AK and HI), and (2) from Ragland, AL, to points in the U.S. (except AK and HI) for 180 days. Supporting shipper(s): Cement Asbestos Products Company, Subsidiary of ASARCO, Inc., 611 Olive St., Suite 1755, St. Louis, MO 63101. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 29910 (Sub-219TA), filed July 12, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 S. 11 St., Ft. Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. (1) *Non-ferrous metals,* and (2) *materials and supplies* used in the manufacture and distribution of non-ferrous metals, from the facilities of ASARCO, Incorporated and Federated Metals Corporation, a subsidiary of ASARCO, Inc. at or near Amarillo, Corpus Christi, and Houston, TX; Omaha, NE; Glover, MO; Sand Springs, OK; Whiting, IN; Newark and Trenton, NJ; San Franciso, CA; Hillsboro, IL; and Columbus, OH; to points in the United States (except AK and HI) for 180 days. Supporting shipper(s): ASARCO, Incorporated, 611 Olive St., Suite 1755, St. Louis, MO 63101. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 35320 (Sub-336TA), filed June 28, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). *Automotive parts and accessories,* between Detroit, MI and its commercial zone and the international boundary at Laredo, TX, for 180 days. Supporting shipper(s): Chrysler Corporation, P.O. Box 1976, Detroit, MI 48288. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 56270 (Sub-31TA), filed July 2, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., 1401–55 State St., P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). *Ice cubers and ice cube dispensers and equipment, materials and supplies used in the manufacturer and distribution of ice cubers and ice cube dispensers* (except commodities in bulk) between Manitowoc, WI on the one hand, and on the other, points in the U.S., except AK & HI, restricted to traffic originating at or destined to Manitowoc Equipment Work, Div. of The Manitowoc Co., Inc., for 180 days. Supporting shipper(s): Manitowoc Equipment Work, Div. of The Manitowoc Co., Inc., 2110 S. 26th St., Manitowoc, WI 54220. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 59150 (Sub-159TA), filed June 27, 1979. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. *Common carrier:* Irregular routes; *Transporting: gypsum, gypsum products and plasterboard joint treatment products,* from facilities of United States Gypsum Co. in Plasterco, VA to AL, GA, NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, 53 Perimeter Center East, Atlanta, GA 30346. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 59640 (Sub-72TA), filed June 27, 1979. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, 301 Blair Road, Woodbridge, NJ 07095. Contract carrier, irregular routes for 180 days. *Meat and meat products* from Amarillo, Dallas, Dumas, Ft. Worth and Houston, TX to the facilities of Supermarkets General Corp. in NJ, NY, and PA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Supermarkets General Corporation, 301 Blair Road, Woodbridge, NJ 07095. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 61231 (Sub-155TA), filed July 2, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Paper, paper products, and cellulose products* between the facilities of The Procter & Gamble Paper Products Company at or near Neely's Landing, MO, on the one hand, and, on the other, Des Moines and Nevada, IA, and Omaha, NE, and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Procter & Gamble Paper Products Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 61620 (Sub-16TA), filed July 3, 1979. Applicant: M & G TRANSPORTATION CO., INC., Rt. 3, Box 234, Gloucester, Virginia 23061. Representative: Eugene Thomas, Route 3, Box 234, Gloucester, VA 23061. *Non-Alcoholic Beverages,* from Elizabeth, NJ to the facility of Cottrell Brokerage Co. near Richmond, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cottrell Brokerage Company, 6901 Ironbridge Road, Richmond, VA. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, Va. 23240.

MC 67500 (Sub-6TA), filed June 20, 1979. Applicant: BLUE RIDGE

TRUCKING COMPANY, INC., PO Box 5118, Biltmore Station, Asheville, NC 28803. Representative: Jones P. Byrd, Suite 300, 29 N. Market St., Asheville, NC 28807. *General commodities (except those of unusual value, classes A & B explosives, household as defined by the Commission, commodities in bulk or requiring special equipment)* between points and places in Buncombe County, NC and points and places in the counties of Madison, Yancey, Mitchell, Avery, Watauga, Ashe, Wilkes, Iredell, Burke, McDowell, Caldwell, Rutherford, Catawba, Polk, Lincoln, Alleghany and Alexander, NC, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority herein with docket number MC–67500. Applicant intends to interline with other carriers at Asheville, NC, primarily, and/or any additional points in counties listed, if needed. Supporting shipper(s): There are 20 supporting shippers. Their statements may be examined at the office below or Headquarters. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 68100 (Sub-27TA), filed July 11, 1979. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK 74003. Representative: William B. Parker, 641 Harrison Street, Topeka, KS 66603. *Coal tar pitch, its products and by-products,* between the facilities of Reiley Tar and Chemical, at or near Lone Star, TX and Granite City, IL, on the one hand, and, on the other, points in the United States, excluding AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reiley Tar and Chemical, P.O. Box 247, Lone Star, TX 75668. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 68100 (Sub-28TA), filed July 9, 1979. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK 74003. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. (1) *Prefabricated buildings and building parts,* from the facilities of Sonoco Buildings, located at or near Chetopa, KS and Waukesha, WI, to points in AL, AR, CO, FL, GA, IA, IL, IN, KS, KY, LA, MI, MO, MS, NE, ND, NM, OH, OK, SD, TN, TX, WI, & WY; and (2) *materials and supplies used in the manufacture of commodities named in (1) above,* in the reverse direction, for 180 days. Supporting shipper(s): Sonoco Buildings, P.O. Box 307, Chetopa, KS 67336. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 75320 (Sub-217TA), filed June 28, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, Missouri 65901. Representative: Phineas Stevens, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Mississippi 39205. Applicant seeks to operate as a *common carrier,* by motor vehicle, 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), *Over Regular Routes:* 1. Between Birmingham, AL and Nashville, TN. From Birmingham over Interstate Hwy. 65 to Nashville, and return over the same route, serving no intermediate points and serving Nashville for purposes of joinder only. 2. Between Nashville, TN and Louisville, KY. From Nashville over Interstate Hwy 65 to Louisville, and return over the same route, serving no intermediate points and serving Nashville for purposes of joinder only. 3. Between Louisville, KY and Indianapolis, IN. From Louisville over Interstate Hwy 65 to Indianapolis, and return over the same route, serving no intermediate points. Restriction: Service at Louisville and points within its commercial zone restricted against the transportation of traffic orignating at, destined to or interlined with connecting carriers at Indianapolis and points within its commercial zone. 4. Between Louisville, KY and Cincinnati, OH. From Louisville over Interstate Hwy 71 to Cincinnati, and return over the same route, serving no intermediate points. Restriction: service at Louisville and points within its commercial zone restricted against the transportation of traffic originating at, destined to or interlined with connecting carriers at Cincinnati and points within its commercial zone. 5. Between Cincinnati, OH and Cleveland, OH. From Cincinnati over Interstate Hwy 71 to Cleveland, and return over the same route, serving Columbus, OH as an intermediate point.

Note.—Applicant requests authority to interline with carriers at Birmingham, Louisville, Cincinnati, Columbus, Indianapolis and Cleveland; requests authority to tack or join with existing authority in MC 75320; and requests authority to serve points in the commercial zones of the involved service points.

MC 77061 (Sub-19TA), filed July 3, 1979. Applicant: SHERMAN BROS., INC., 29534 Airport Road, P.O. Box 706, Eugene, OR 97402. Representative: Russel Allen 1200 Jackson Tower Portland, OR 97205. *Iron and steel articles* between points in Portland, OR and Lane County, OR on the one hand, and Alameda County, CA on the other. Restricted to shipments originating at or destined to facilities of Gilmore Steel Corp. for 180 days. A corresponding ETA was granted June 26, 1979 for 30 + 2 MC 77061 R–4, expires Sept. 23, 1979. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gilmore Steel Corp., 30011 Leghorn, Eugene, OR 97402. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 79550 (Sub-5TA), filed June 28, 1979. Applicant: ERSKINE TRUCKING, INC., 6210 Center Rd., Lowellville, OH 44456. Representative: James Duvall, 220 W. Bridge St., Dublin, OH 43017. *Iron and Steel articles,* from Buffalo and Rochester, NY to points in PA on and west of US Hwy. 219 and to points in Ohio and from Cleveland, OH to points in PA on and west of U.S. Hwy. 219 and points in NY on and west of US Hwy. 11, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allegheny Steel Distributors, Inc., P.O.B. 104, 4088 Alpha Dr., Allison Park, PA 15010; Connors Steel Co., 4076 Youngstown Rd., SE, Warren, OH 444; Connors Steelstrapping Co., P.O.B. 2105, Youngstown, OH 44; The Gilbralter Group of companies, 2545 Walden Ave., Buffalo, NY 14225; Northern Steel Products, Inc., 3200 Blemont Ave., Youngstown, OH 44505. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 7th St., Room 620, Philadelphia, PA 19106.

MC 87511 (Sub-25TA), filed June 29, 1979. Applicant: SAIA MOTOR FREIGHT LINE, INC., P.O. Box 10157, Station One, Houma, LA 70360. Representative: Phillip Robinson, P.O. Box 2207, Austin, TX 78768. *Secondary fiber (wood pulp)* from the plant site and facilities of East Texas Pulp and Paper Co., at or near Evadale, TX, to the plant site and facilities of Valentine Pulp and Paper Co. at or near Lockport, LA, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Valentine Pulp and Paper Co., P.O. Box 280, Lockport, LA 70340. Send protest to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 90870 (Sub-30TA), filed June 21, 1979. Applicant: Riechmann Enterprises, Inc., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. *Iron and steel railroad car and locomotive engine wheels and parts and accessories therefor,* from Keokuk, IA to points in IL and MO for 180 days. An

underlying ETA was granted for 90 days authority. Supporting shipper(s): Griffin Wheel Company, Div. of Amsted Ind., Inc., 200 West Monroe Street, Chicago, IL 60606. Send Protests to Annie Booker, TA, ICC 219 South Dearborn Street, Rm. 1386, Chicago, IL 60606.

MC 97310 (Sub-33TA), filed July 2, 1979. Applicant: SHARRON MOTOR LINES, INC., P. O. Box 5636, Meridian, MS 39301. Representative Bruce E. Mitchell, 3390 Peachtree Rd., Altanta, GA 39326. Common carrier: *regular route: Aluminum castings and pallets, platforms, racks of skids,* for lift trucks, steel or wood, between Meridian, MS and Sheffield, AL. From Meridian, MS over US Hwy. 45 to Columbus, MS, thence State Hwy. 18 to Vernon, AL, thence State Hwy. 17 to Hamilton, AL, thence US Hwy. 43 to Sheffield, AL and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dynac Corp., Northeast Industrial Pk., Meridian, MS 39301. Send protests to: Alan C. Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 106521 (Sub-4TA), filed June 20, 1979. Applicant: HOLMES CARTAGE CO., Box 638, Kilbuck, OH 44637. Representative: Boyd B. Ferris, 50 W. Broad St. Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers and distributors of wood and wood products,* between Holmes County, OH, on the one hand, and, on the other, pts. in KY, TN, GA, VA, NC, SC, and WV, for 180 days. An underlying ETA seeks 90 days authority. Restricted, to the transportation of shipments originating at or destined to the facilities of Semac Ind., and Rite-Way Manufacturing, Inc. in Holmes County, OH. Supporting shipper(s): Rite-Way Manufacturing, Inc., Rt. #4, Millersburg, OH 44654; Semac Industries, Inc., Route #2, Millersburg, OH 44654. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia., PA 19106.

MC 106920 (Sub-85TA), filed June 22, 1979. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., New Bremen, OH 45869. Representative: David C. Venable, 805 McLachlen Bank Bldg., Washington, DC 20001. *Frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in IL, KY, MI, MO, OH, PA, restricted to shipments orginating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN, for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 46203. Send protest to: D/S, ICC, 101 N. 7 Street, Philadelphia, PA 19106.

MC 107541 (Sub-63TA), filed July 2, 1979. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 12925 N.E. Rockwell Drive Vancouver, WA 98665. Representative: Edward A. Francom, 12925 N.E. Rockwell Drive, Vancover, WA 98665. *(1) and (2) paper bags and woven paper fabric bags; (3) materials, supplies and equipment used in the manufacture of commodities named in (1) and (2)*—(1) from the facilities of Chase Bag Company at Portland, OR to points in CA, ID, OR, and WA. (2) from the facilites of Chase Bag Company at Hanvord, CA to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY (3) from points in (1) and (2) on return, for 180 days. An ETA has been filed R–21 and a permanent will be filed within 30 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chase Bag Company, 814 Commerce Drive, Suite 1111, Oak Brook, IL 60521. Send protest to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 107541 (Sub-64TA), filed July 5, 1979. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 12925 N.E. Rockwell Drive Vancouver, WA 98665. Representative: Edward A. Francom, 12925 N.E. Rockwell Drive, Vancouver, WA 98665. Fibrous Glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials; glass fibre rovings, yarn and strands; glass fibre mats and mattings; flexible air duct, (except in bulk), from the facilties of CertainTeed Corp. at or near Chowchila, CA to points in the States of OD, OR and WA. for 180 days. A corresponding ETA was granted July 5, 1979, MC 107541 R–22 and a permanent will be filed. An underlying ETA seeks 90 days authority. Supporting shipper(s): CertainTeed Corp., P.O. Box 860,Valley Forge, PA 19482. Send protest to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 107541 (Sub-65TA), filed July 6, 1979. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 12925 N.E. Rockwell Drive, Vancouver, WA 98665. Representative: Edward A. Francom, 12925 N.E. Rockwell Drive, Vancouver, WA 98665. *Crushed stone,* except in bulk from the facilities of Mustard Seed Stone & Materials, at or near Wheatland, WY to points in AZ, CA, NV, OR, WA and points in ID on and west of U.S. Highway 93 for 180 days. A corresponding ETA was granted July 11, 1979 for 30+2., expires October 8, 1979. A permanent will be filed. Supporting shipper(s): Mustard Seed Stone and Materials, 1107 S.E. 130th Ave., Vancouver, WA 98664. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 108380 (Sub-102TA), filed July 27, 1979. Applicant: JOHNSTON'S FUEL LINERS, INC., P.O. Box 100, Newcastle, WY 82701 Representative: Turman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. *Cement* in bags and in bulk, from the South Dakota Cement Plant near Rapid City, SD to points in CO, MN, MT, NE, ND, SD and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The South Dakota Cement Plant, west of Rapid City, SD 57701. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105, Federal Building and Court House, 111 South Wolcott, Casper, WY 82601

MC 110380 (Sub-16TA), filed July 6, 1979. Applicant: BERSCHENS OF MADISON, INC., 120 W. Verona Ave., Verona, WI 53594. Representative: Rolfe Hanson, 121 W. Doty St., Madison, WI 53703. *Lathes, automatic assembly machinery and balancing machinery* from Rock County, WI to points in MI and OH, and return of materials and supplies used in the manufacturing of such commodities from points in MI and OH to points in Rock County, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gilman Engineering & Mfg., Div. of Giddings & Lewis, Inc., 305 W. Delavan Dr., Janesville, WI 53545. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 11042 (Sub-830TA), filed June 28, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Chemicals, in bulk, in tank vehicles,* from facilities of Monsanto Co. at or near Chocolate Bayou and Texas City, TX and Houston, TX Commercial Zone to all points in the U.S. on and east of LA, AR, MO, IA and MN, for 180 days. Supporting shipper(s): Monsanto Co., 800 N. Lindbergh, St. Louis, MO 63166. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 110420 (Sub-831TA), filed July 13, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 136, Pleasant Prairie, WI 53158. Representative: John Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Chocolate and chocolate products, in bulk, in tank vehicles,* from Overland Park, KS to points in the U.S., except AK and HI, for 180 days. Supporting shipper(s): Shade Foods, Inc., P.O. Box 5925, Shawnee Mission, KS 66215. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111231 (Sub-275TA), filed June 21, 1979. Applicant: JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, Ar 72902. Underlying ETA sought corresponding authority for 90 days. *Concrete roofing tile* from Shawnee, OK to points in AL, AR, CA, CO, IL, IN, IA, KS, LA, MI, MO, MS, NE, NM, NC, SC, TN, TX and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Tile Industries, Inc., 706 W. Independence, Shawnee, OK 74801. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 111231 (Sub-276TA), filed July 5, 1979. Applicant: JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, Ar 72902. *Electrolytic Chlorination Cells* and *components* used in the manufacture and distribution thereof (except in bulk) between Russellville, AR and CA, LA, MI and TX for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): DOW Chemical Co. U.S.A., P.O. Box 1048, Russellville, AR. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 111310 (Sub-44TA), filed June 22, 1979. Applicant: BEER TRANSIT, INC., Box 352, Black River Falls, WI 54615. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Malt beverage and malt beverage dispensing equipment* when shipped therewith from Evansville, IN to points in MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. Heileman Brewing Co., Inc., 925 S. Third St., LaCrosse, WI 54601. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111310 (Sub-45TA), filed June 22, 1979. Applicant: BEER TRANSIT, INC., Box 352, Black River Falls, WI 54615. Representative: Wayne Wilson, 150 E. Gilamn St., Madison, WI 53703. *Malt beverages and malt beverage dispensing equipment* when shipped therewith from LaCrosse, WI to points in the Chicago, IL commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): G. Heileman Brewing Co., Inc., 925 S. Third St., LaCrosse, WI 5601. Send protests to: Gail Daugherty, TA, ICC 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111310 (Sub-46TA), filed July 6, 1979. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Water* from Milwaukee, WI to points in MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Jos. Schlitz Brewing Co., P.O. Box 614, Milwaukee, WI 53201. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111319 (Sub-47TA), filed July 9, 1979. Applicant: BEER TRANSIT, INC., Box 352, Black River Falls, WI 54615. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. (1) *Malt beverages and related advertising materials and supplies and malt beverage dispensing equipment* when shipped therewith, from Frankenmuth, MI to points in WI and MN and (2) *rejected shipments and malt beverage containers* from points in MN and WI to Frankenmuth, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): G. Heilman Brewing Co., Inc., 925 S. Third St., LaCrosse, WI 54601, and Gusto Distributing, Inc., 525 Park Ridge Drive, Eau Claire, WI 54701, and Rex Distributing Co., Inc., 3225 Spring St., NE, Minneapolis, MN 55413. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202,

MC 111401 (Sub-577TA), filed July 3, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum naphtha,* in bulk, in tank vehicles, from Denver, CO, to Bell Creek, MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Union Chemicals Division, Union Oil Company of California, 1535 W. 13th Ave., Denver, CO 80204. Send protests tp: Connie Stanley, ICC, 215 N.W. 3rd, Rm. 240, Oklahoma City, OK 73102.

MC 111401 (Sub-578TA), filed July 5, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Chemicals,* in bulk, in tank vehicles, from Deepwater, NJ, to Wynnewood, OK and Duncan (Sunray), OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. I. DuPont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 113271 (Sub-61TA), filed June 26, 1979. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. *Non-alcoholic beverages, in containers,* from points in King, Pierce, and Snohomish Counties, WA, Spokane and Yakima, WA, Lewiston, ID, Portland, OR and Salt Lake City, UT, to points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Great Falls Coca-Cola Bottling Co., Inc., 1117 Seventh St. So., Great Falls, MT 59405. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 113760 (Sub-16TA), filed June 28, 1979. Applicant: PETCO INC., INTERSTATE, 7627 Dahlia St., P.O. Box 478, Commerce City, CO 80037. Representative: Robert D. McAlister (same address as applicant). *Petroleum products in bulk, in tank vehicles,* between points in KS on the one hand, and, on the other, points in CO, for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Spruce Oil Corporation, 1776 Lincoln St., Denver, CO. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 113760 (Sub-17TA), filed July 3, 1979. Applicant: PETCO INC., INTERSTATE, P.O. Box 478, Commerce City, CO 80037. Representative: Robert D. McAlister (same address as applicant). *Petroleum products, in bulk, in tank vehicles,* between points in NM on the one hand, and, on the other, points in CO, for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Western Paving Construction Co., P.O. Box 21649, Denver, CO 80221. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 113861 (Sub-76TA), filed July 6, 1979. Applicant: WOOTEN TRANSPORT, INC., 153 Gaston Ave., P.O. Box 725, Memphis, TN 38101. Representative: James N. Clay, III, 2700 Sterick Bldg., Memphis, TN 38103. Fuel oil, in bulk, in tank vehicles from Memphis, TN to Osceola, Blytheville and Stuttgart, AR, for 180 days. An

underlying ETA seeks 90 days authority. Supporting shipper(s): Ergon, Inc., 1989 Channel Ave., Memphis, TN 381113. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38113.

MC 115311 (Sub-367TA), filed June 14, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, Suite 1200, 235 Peachtree St., NE, Atlanta, GA 30303. (1) *Roofing, building and insulation materials (except in bulk)* from the facilities of Rmax, Inc. at or near Greer, SC to points in the US in and east of MS, TN, KY, WV, PA and NY (2) *Materials, equipment and supplies used in the manufacture, sale and distribution of the items named in (1) above* from points in the US in and east of MS, TN, KY, WV, PA and NY to the facilities of Rmax, Inc. at or near Greer, SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rmax, Inc., 13524 Welch Road, Dallas, TX 75240. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm 300, Atlanta, GA 30309.

MC 115311 (Sub-368TA), filed June 15, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. (1) *Boards, composition board, lumber, plywood, gypsum wallboard, poles and posts and (2) Materials and supplies used in the installation, manufacture and distribution of commodities in (1) above (except commodities in bulk, in tank vehicles)* between all points in the US in and east of ND, SD, NE, KS, OK and TX, restricted to traffic originating at or destined to the facilities used by Weyerhaeuser Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, Tacoma, WA 98401. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N., Atlanta, GA 30309.

MC 115311 (Sub-369TA), filed June 21, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. (1) *Malt beverages and related advertising matter (2) empty malt beverage containers, malt beverage pallets, dunnage, refused, damaged or rejected shipments on return* (1) from Evansville, IN to Anniston, Birmingham, Gadsden, Huntsville, Montgomery, AL; Baton Rouge and Harahan, LA; Biloxi, Hattiesburg and Jackson, MS; Beaumont, Dallas, Ft. Worth and Houston, TX (2) from the destination points shown in (1) above to Evansville, IN on return, for 180 days. An ETA seeks 90 days authority. Supporting shipper(s): G. Heileman Brewing Co., Inc., 925 South Third Street, LaCrosse, WI 54601. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 115311 (Sub-370TA), filed July 3, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. (1) *plastic pipe, plastic tubing, plastic fittings and accessories used in the insallation thereof* from the facilities of Phillips Driscopipe, Inc. at or near Startex, SC to points in the U.S. in and east of the states of LA, AR, TN, KY, IL and MI (2) *Materials and supplies (except in bulk) used in the manufacture and distribution of plastic pipe, plastic tubing and plastic fittings* from points in the U.S. in and east of the states of LA, AR, TN, KY, IL and MI to the facilities of Phillips Driscopipe, Inc. at or near Startex, SC for 180 days. Supporting shipper(s): Phillips Petroleum Company, 154 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 115841 (Sub-724TA), filed July 5, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Cheese*, in vehicles with mechanical refrigeration, from Brooksville, MS to Allentown, PA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Glenda Kuss, T/A, ICC, A–422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-725TA), filed July 13, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Calcium cassinate and cheese analog* from Humboldt, TN to points in AL, AR, AZ, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NC, OH, OK, SC, TX, VA, WV & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Clayton Foods, P.O. Box 226165, Dallas, TX 75266. Send protests to: Glenda Kuss, T/A, ICC, Suite A–422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 116300 (Sub-52TA), filed July 9, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. Malt beverages, and materials and supplies ordinarily dealt in by malt beverage distributors from the facilities of Miller Brewing Company at or near Fort Worth, TX, to McComb, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Beverage Co., P.O. Box 753, McComb, MS 39648. Send protests to: Alan C. Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 116710 (sub-39TA), filed June 27, 1979. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., P.O. Box 6176 Bossier City, LA 71010. Representative: Joe T. Lanham, Suite 801 Vaughn Bldg., 807 Brazos St., Austin, TX 78701. Applicant is seeking authority to operate as a *Contract carrier* over irregular routes transporting (1) *Sulphuric Acid* from the facilities of Stauffer Chemical Company at Baton Rouge, LA to points in TX, OK, AR, TN, GA, AL, and MS; (2) *Spent Sulphuric Acid* from points in TX, OK, AR, TN, GA, AL, and MS to the facilities of Stauffer Chemical Company at Baton Rouge, LA; and (3) *Caustic Soda and caustic soda with additives* from the facilities of Stauffer Chemical Company at St. Gabriel, LA to points in TX, OK, AR, TN, GA, AL, and MS. Under existing contract or contracts with Stauffer Chemical Company. This is for 180 days. Applicant has filed underlying ETAs seeking 90 days. Supporting shipper(s): Stauffer Chemical Company, Nyala Farms Road, Westport, CT. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 117730 (Sub-61TA), filed June 1, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205, W. Touhy Avenue, Park Ridge, IL 60068. *Rough turned liners and iron castings*, from the facilities of Frank Foundries Corporation at Moline, IL, to Romulus, MI and points in its commercial zone for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): Frank Foundries Corporation, 2020 Third Avenue, Moline, IL 61265. Send Protests to: Dave Hunt, T/A, 219 S.

Dearborn Street, Room 1386, Chicago, IL 60604.

MC 117730 (Sub-62TA), filed July 9, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, 33 No. LaSalle St., Chicago, IL 60602. (1) *Meats, meat products, meat by-products, articles distributed by meat packing houses, dairy products, and (2) foodstuffs when moving in mixed loads with the commodities in (1) above (except commodities in bulk), when moving in vehicles equipped with mechanical refrigeration,* from the facilities of Oscar Mayer & Co., Inc. at Madison, WI to points in OH and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oscar Mayer & Co., P.O. Box 7188, Madison, WI 53707. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 118370 (Sub-4TA), filed July 11, 1979. Applicant: BANANA TRANSPORT, INC., 12712 North Oregon Ave., Tampa, FL 33612. Representative: John G. Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. *Central heating and air conditioning units and component parts* between Nashville, TN, on the one hand, and points in FL, on the other for 180 days. Supporting shipper(s): Heil-Quaker Corp., 1710 Heil-Quaker Blvd., Interchange City, Lavergne, TN 37086. Send protests to: Donna M. Jones, T/A, ICC–BOp, Monterey Bldg, Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 118431 (Sub-30TA), filed June 25, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Contract carrier,* irregular routes. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and articles which because of size or weight require the use of special equipment) between the facilities of SCM Corporation at or near Louisville, KY; Chicago and Joliet, IL; Baltimore, MD; Thorofare, NJ; Huron, OH; Shiremanstown, PA; and Carrollton, TX on the one hand, and on the other, points in the United States (except AK and HI), restricted to service to be performed under contract with SCM Corporation, for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): SCM Corporation, 900 Union Commerce Bldg., Cleveland, OH 44115. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 118610 (Sub-34TA), filed July 3, 1979. Applicant: GEORGE PARR TRUCKING SERVICE, INC., 829 Alsop Lane, Owensboro, KY 42301. Representative: Geo. M. Catlett, Suite 708 McClure Bldg., Frankfort, KY 40601. *Building materials, gypsum, and gypsum products,* from the facilities of U.S. Gypsum Company at Martin County, IN, to points in IL, IN, KY, MI, MO, OH, and TN. An underlying ETA seeks 90 days authority. Supporting shipper(s): Donald R. Vandermyde, United States Gypsum Co., 101 So. Wacker Dr., Chicago, IL 60606. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 118811 (Sub-14TA), filed July 2, 1979. Applicant: LAWRENCE McKENZIE TRUCKING SERVICE, INC., Route 5, Box 111, Winchester, KY 40391. Representative: William L. Willis, 708 McClure Bldg., Frankort, KY 40601. *Lard cans, shower stalls, furnaces, stoves and parts, accessories and supplies* related thereto, from the facilities of Louisville Tin and Stove Company, Inc., at Louisville, KY, to points in AL, AR, GA, LA, MS, MO, NC, OK, SC, TN, TX, VA, and WV. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carl Sundberg, Louisville Tin & Stove Co., Inc., P.O. Box 1079, Louisville, KY 40201. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 118831 (Sub-180TA), filed June 20, 1979. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller III (same as above). *Dry terephtahalic acid, in bulk, in tank vehicles,* from Decatur, AL to Old Hickory, TN and Portland, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. I. duPont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 119741 (Sub-148TA) (corrected), filed February 16, 1979. published originally in April 23, 1979 **Federal Register.** Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, P.O. Box 1235, Fort Dodge, IA 50501. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the Report on Descriptions in Motor Carrier Certificates, 61, M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles),* from Ames and Webster City, IA to KS, MN, MO, NE, and WI, restricted to trafic originating at the named origins and destined to the named destinations for 180 days. The purpose of this corrected publication is to reflect the correct authority sought and to list previously omitted supporting shipper. Supporting shipper(s): (a) Meat Requirements Coordination, Inc., Park Plaza Building, Ames, IA 50010; (b) G. B. Nissen, P.O. Box 156, Webster City, IA, 50595. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 119741 (Sub-201TA), filed June 25, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Foodstuffs* from the facilities of PVO International, Inc. at St. Louis, MO to points in CO, OK and TX; restricted to traffic originating at the named origin and destined to the named destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PVO International, Inc., 3400 N. Wharf, St. Louis, MO 63147. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-212TA), filed July 9, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same address as applicant). *Plastic and rubber articles, aluminum kitchenware, candles, gloves, and pottery* from points in OH to points in CO, IL, IA, KS, MN, MO, ND, OK, SD, TX, and WI, restricted to traffic originating at the facilities of Lancaster Colony Corporation and its subsidiaries and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lancaster Colony Corporation, 37 West Broad Street, Columbus, OH 43215. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-213TA), filed July 9, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Ft. Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). *Packaged frozen meat* from the facilities of Standard Meat Company at or near Lincoln, NE, to points in AR, IA, KS, and MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Meat Company, 700 Van Dorn Street, Lincoln, NE 68501. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 119800 (Sub-4TA), filed July 2, 1979. Applicant: PHILIP THOMAS TRUCKING, INC., P.O. Box 742, Wynnewood, OK 73098. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *Fuel oil*, in bulk, in tank vehicles, from Fort Worth and Graham, TX, to Wynnewood, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S & S Trading Company, Ltd., 3711 Classen Blvd., Oklahoma City, OK 73118. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119800 (Sub-5TA), filed July 9, 1979. Applicant: PHILIP THOMAS TRUCKING, INC., P.O. Box 742, Wynnewood, OK 73098. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *Asphalt and fuel oil*, in bulk, in tank vehicles, from Wynnewood and Ardmore, OK, to points in Young, Jack, Ellis, Wise, Denton, Collin, Rockwall, Kaufman, Dallas, Tarrant, Johnson, Somervell, Hood, Parker, and Palo Pinto Counties, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Asphalt & Petroleum Co., P.O. Box 7637, Fort Worth, TX 76111. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 121420 (Sub-14TA), filed July 3, 1979. Applicant: DART TRUCKING CO., INC., 61 Railroad St., Canfield, OH 44406. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Iron and steel and iron and steel articles* from the facilities of Wheeling-Pittsburgh Steel Corporation located at Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH; Allenport and Monessen, PA; Beech Bottom, Benwood, Follansbee, and Wheeling, WV to points in the states of IL, IN, KY, MD, MI, NY, OH, PA, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, PA 15230. Send protests to: D/S, ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 121450 (Sub-12TA), filed July 12, 1979. Applicant: McCOMAS TRUCK LINES, INC., 604 North Second Street, Chickasha, OK 73018. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Common carrier*: Regular routes: *general commodities* (except those of unusual value, classes A and B explosives, household goods at defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Chickasha, OK and junction of OK Hwy 7 and U.S. Hwy 81 serving all intermediate points: from Chickasha over U.S. Hwy 277, to junction OK Hwy 7, then over OK Hwy 7 to junction U.S. Hwy 81 and return over the same route; (2) between Chickasha, OK and Rush Springs, OK, serving all intermediate points: from Chickasha over U.S. Hwy 62 to junction U.S. Hwy 277, then over U.S. Hwy 277 to junction OK Hwy 17, over OK Hwy 17 to Rush Springs and return over the same route; (3) between Sterling, OK and junction OK Hwy 65 and U.S. Hwy 70, serving all intermediate points: from Sterling over OK Hwy 65 to junction U.S. Hwy 70 and return over the same route; (4) between Randlett, OK and Waurike, OK over U.S. Hwy 70, serving all intermediate points; (5) between Wichita Falls, TX and Waurika, OK, serving all intermediate points: from Wichita Falls, over TX Hwy 79 to junction OK Hwy 79 at TX–OK boundary line, then over OK Hwy 79 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Waurika, and return over the same route; (6) between Terral, OK and junction TX Hwy 240 and U.S. Hwy 277 serving all intermediate points: from Terral over U.S. Hwy 81 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction TX Hwy 25, then over TX Hwy 25 to junction TX Hwy 240, then over TX Hwy 240 to junction U.S. Hwy 277, and return over the same route, for 180 days. Note: Applicant intends to tack with existing authority at Chickasha, OK and applicant intends to interline with other carriers at Chickasha and Oklahoma City, OK. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 20 supporting shipper statements. These may be examined at Headquarters or the field office listed below. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 121470 (Sub-29TA), filed June 29, 1979. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan Street, Nashville, TN 37207. Representative: Roy L. Tanksley, (same address as applicant). *Iron and steel articles* between the facilities of Boyce Steel, Inc. at or near Kingston Springs, TN, on the one hand, and on the other, Price, UT; Fredericksburg, VA; McKinney, TX; Cincinnati, OH; Kalamazoo, MI; Charleston, SC, for 180 days. Restricted to transportation of traffic originating at or destined to the facilities of Boyce Steel, Inc. at or near Kingston Springs, TN. An underlying ETA seeks 90 days of authority. Supporting shipper(s): Boyce Steel, Inc., P.O. Box B, Kingston Springs, TN 37082. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 121470 (Sub-30TA), filed July 5, 1979. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan Street, Nashville, TN 37207. Representative: Roy L. Tanksley, (same address as applicant). *Steel footwalks, aluminum footwalks, and fiberglass footwalks* from the facilities of IKG Industries at or near Nashville, TN, to Grand Rapids, MI; Milwaukee and Pleasant Prairie, WI; Toledo, OH; Houston, Ft. Worth, Amarillo, Wadsworth and Rockdale, TX; Newton, KS; Beulah, ND; Rabbit Hash, Ghent and Louisville, KY; Jackson, MS and Masury, OH. An underlying ETA seeks 90 days of authority. Supporting shipper(s): IKG Industries, P.O. Box 479 Nashville, TN 37202. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 123061 (Sub-130TA), filed April 30, 1979. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South Temple No. 501, Salt Lake City, UT 84102. *Hides*, from Portland, OR, Ellensburg, WA, Nampa, ID, the facilities of C.U.I. International and Pacific Hide and Fur Co., at or near Boise, ID, Roberts, ID, Grand Junction, Delta, and Greely, CO, the facilities of Schwartzman Meat Co., at or near Albuquerque, NM, Billings, MT, and Monticello, UT, to Petaluma, San Francisco, and Oakland, CA, and points in Salt Lake County, UT; from Salt Lake County, UT, to Petauluma, CA; from Dixon, CA, and Carson Valley Meat Co., at or near Carson City, NV, to points in Salt Lake County, UT, for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): Tanfur Co., 5241 So. 300 W., Murray, UT 84107. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 123681 (Sub-37TA), filed July 11, 1979. Applicant: WIDING TRANSPORTATION, INC., 10145 N. North Portland Road, Portland, OR 97203. Representative: Lee Fishback, 10145 N. North Portland Road, Portland, OR 97203. *Arsenic acid in bulk in tank trucks* from Bryan, Texas, to Newark, CA, for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): Koppers Company, Inc., 850 Koppers Building, Pittsburgh, PA 15219. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill, Portland, Oregon 97204.

MC 124141 (Sub-23TA), filed July 5, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Foodstuffs* (except commodities in bulk) between points in the United States, restricted to shipments originating at or destined to facilities of or used by Swift & Company, for 180 days. Supporting shipper(s): Swift & Company, 115 West Jackson Blvd., Chicago, IL 60604. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 124170 (Sub-124TA), filed April 12, 1979, published in the **Federal Register** issue of June 7, 1979, and republished as corrected this issue. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Bananas and agricultural commodities exempt from regulation under section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas, from the facilities of Del Monte Banana Co., at Port Hueneme, CA to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, TX and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Del Monte Banana Company, 1201 Brickel Avenue, Miami, FL 33101. Send protest(s) to: C. R. Flemming, DS, ICC, 225 Federal Bldg., Lansing, MI 48933.

MC 127730 (Sub-5TA), filed July 10, 1979. Applicant: A. A. A. CARTAGE, INC., 5938 S. 13th St., Milwaukee, WI 53221. Representative: G. Phillip Beitz (same address as applicant). *General commodities, except Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment,* between Minneapolis-St. Paul, MN on the one hand, and, on the other, Chicago, IL and Milwaukee, WI, restricted to shipments having prior or subsequent movement by air or in substitute motor for air service for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are seven shippers. Their statements may be examined at the office listed below and Headquarters. Send protest to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 127840 (Sub-117TA), filed June 22, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Dr., Lansing, IL 60438. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601. *Carbontetrachloride, in bulk,* from New Castle, KY, to Deer Park, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inland Chemical Co., P.O. Box 406, New Castle, KY 40050. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 128270 (Sub-36TA), filed March 16, 1979. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. *Iron and steel articles;* from Burns Harbor, IN to points in AL, AR, CO, GA, KS, KY, LA, MS, OK, TN, TX for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Bethlehem Steel Corporation, Box 248, Chesterton, IN 46304. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 128270 (Sub-37TA), filed April 3, 1979. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. *Iron and Steel* articles, between the plant site of Midwest Steel Division, National Steel Corporation at Portage, IN and points in Arkansas, CO, KS, KY, OK, TN and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midwest Steel, Division National Steel Corp., Highway No. 12, Portage, IN 46368. Send protests to: Annie Booker, Room 1386, 219 S. Dearborn, Chicago, IL 60604.

MC 128270 (Sub-38TA), filed April 23, 1979. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. *Lumber, lumber mill products and wood products,* from the facilities of Potlatch Corporation at or near Coeur d'Alene, St. Maries, Potlatch, Lewiston, Kamiah, Spalding, Jaype (near Pierce), Santa and Post Falls, ID to points in IN, MI, MO and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Potlatch Corporation, P.O. Box 1016, Lewiston, ID 83501. Send protests to: Annie Booker, TA, ICC, 1386 Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 128270 (Sub-39TA), filed May 3, 1979. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. *Iron and steel articles,* from the facilities of Jones & Laughlin Steel Corp. at or near Heenepin, IL (Putnam County) to points in CO, KS, OK and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corporation, P.O. Box 325, Hennepin, IL 61327. Send protests to: Annie Booker, TA, ICC, 1386 Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 128270 (Sub-40TA), filed May 9, 1979. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. *Lumber, lumber mill products and wood products,* from the facilities of Potlatch Corp. at or near Warren and Prescott, AR, to points in KY, IN, TN, MI, IL, MO, KS, NE, OH, OK, MN, WI and IA for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): Potlatch Corporation, P.O. Box 1016, Lewiston, ID 83501. Send protests to: David Hunt, Transportation Assistant, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 128270 (Sub-41TA), filed June 26, 1979. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley St., East Gary, IN 46405. Representative: Richard A. Kerwin, 180 N. LaSalle St., Chicago, IL 60601. *Lumber, lumber mill products and wood products,* from points in WI, MN, and IN to points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Beecher Industrial Wood Products, P.O. Box 615, Harvey, IL 60426. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 128460 (Sub-5TA), filed June 25, 1979. Applicant: JOHN J. CONAHAN d.b.a. CENTRAL AIR FREIGHT SERVICE, 29 West Green St., Hazleton, PA 18201. Representative: Joseph F. Hoary, 121 South Main St., Taylor, PA 18517. *Wearing apparel, garments and clothing and materials and supplies used in the manufacture of wearing apparel, clothing and garments,* between Gratz, PA on the one hand, and, on the other, John F. Kennedy International Airport, New York, NY; Newark Airport, Newark, NJ; Philadelphia International Airport, Philadelphia, PA for 180 days. Restricted to the transportation of shipments having an immediately prior or subsequent move by air. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hegins Corporation, 633 Chestnut St., Hegins, PA 17938. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 129410 (Sub-15TA), filed June 22, 1979. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Lane Rd., Crystal Lake, IL 60014. Representative: Carl Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Contract carrier, irregular routes, Liquid sweeteners,* in bulk, in tank vehicles, between the plantsite and facilities of Amstar Corporation, in Chicago, IL on the one hand, and points and places in IN, KY, MI, and OH, on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amstar Corporation, 2905 South Western Ave., Chicago, IL 60608. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn, Chicago, IL 60604.

MC 129410 (Sub-16TA), filed June 22, 1979. Applicant: ROBERT BANCOSKY, INC., 4811 Tile Lane Road, Crystal Lake, IL 60014. Representative: Carl Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Contract carrier, irregular routes, sugar, syrup (high fructose), and blends,* thereof between the plantsite and facilities of the Great Western Sugar Co., in Brookfield, IL on the one hand, and points and places in IA, IN, KS, KY, MI, MO, NJ, OH, and WI on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Great Western Sugar Company, 9501 West Southview Ave., Brookfield, IL 60513. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn, Chicago, IL 60604.

MC 129410 (Sub-17TA), filed July 2, 1979. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Road, Crystal Lake, IL 60014. Representative: Carl Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier:* irregular routes: *Molasses, animal feeds and blends thereof, in bulk, in tank vehicles,* between the facilities of Knappen Molasses Company, IL on the one hand, and on the other, points in IN, IA, MI, MO, OH and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Knappen Molasses Co., 13550 S. Indiana Ave., Chicago, IL 60627. Send protests to: Dave Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 134730 (Sub-16TA), filed June 29, 1979. Applicant: METALS TRANSPORT, INC., 528 S. 108th St., West Allis, WI 53214. Representative: M. H. Dawes (same address as applicant). Contract carrier; irregular routes; *Waste water treatment equipment and parts, materials, equipment and supplies (except commodities in bulk) used in the manufacture of waste water treatment equipment,* between Oak Creek, WI on the one hand, and, on the other points in MA, RI, CT, DE, MD, DC, NC, SC, GA, FL, AL, MS & LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Autotrol Corp., 307 W. Marquette, Oak Creek, WI. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 134730 (Sub-17TA), filed June 29, 1979. Applicant: METALS TRANSPORT, INC., 528 S. 108th St., West Allis, WI 53214. Representative: M. H. Dawes (same address as applicant). Contract carrier; irregular routes; *Waste water treatment equipment and parts, materials, equipment and supplies except commodities in bulk used in the manufacture of waste water treatment equipment,* between Oak Creek, WI on the one hand, and, on the other, points in TX, OK, MT, WY, CO, NM, AZ, UT, ID, NV, WA, OR & CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Autotrol Corp. 307 W. Marquette, Oak Creek, WI. Send protests to: Gail Daugherty, TA, ICC 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 134730 (Sub-18TA), filed July 3, 1979. Applicant: METALS TRANSPORT, INC., 528 S. 108th St., West Allis, WI 53214. Representative: M. H. Dawes (same address as applicant). Contract carrier; irregular routes; *Forest products, lumber, millwork, plywood, building supplies and hardware; and materials, parts, supplies and equipment used in the manufacture, production and repair of the above,* between Plymouth, WI on the one hand, and on the other, points in ME, NY, MA, RI, CT, NH, NJ, DE, MD, NC, SC, GA, FL, AL, MS, LA, TX, OK, ND, SD, MT, WY, CO, NM, ID, UT, AZ, WA, OR, NV, & CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilderness Log Homes, Inc., Route 2, Plymouth, WI 53073. Send protests to: Gail Daugherty, TA, ICC, 517 W. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 135070 (Sub-79TA), filed June 22, 1979. Applicant: JAY LINES, INC., 720 N. Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, 137 N.W. 17th, P.O. Box 82816, Lincoln, NE 68501. *Plumbing fixtures and fittings,* from the facilities of Kohler Company, Inc. in Sheboygan County, WI, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA AND WY; and from the facilities of Kohler Company, Inc., at Brown County, TX, to Sheboygan County, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kohler Company, Inc., P.O. Box A, Kohler, WI 53044. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27, Federal Bldg., 819 Taylor St., Forth Worth, TX 76102.

MC 135070 (Sub-80TA), filed June 25, 1979. Applicant: JAY LINES, INC., 720 N. Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, 137 N.W. 17th, P.O. Box 82816, Lincoln, NE 68501. *Meats, meat products, meat byproducts, articles distributed by meat packinghouses and such commodities as are used by meat packers in the conduct of their business, as described in Sections A, C, and D, of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, and the facilities of Armour & Company, at or near Mason City, IA, on the one hand, and, on the other, points in KS, NE, AR, OK, LA, TX, NM, CO, UT, AZ, NV, CA, OR, WA, ID, CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, WV, VA, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour & Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27, Federal Bldg., 819 Taylor St., Forth Worth, TX 76102..

MC 135070 (Sub-81TA), filed June 18, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. *Household products and related articles, dessert preparations, milkfood liquid, beverage preparations, noncarbonated water, hair care toiletries and hair care equipment, drugs, shampoo, soap and toilet articles* from the facilities utilized by Bristol-Myers and its subsidiaries, Clairol, Inc., Drackett Compnay, Mead-Johnson & Company, Monrack Crown Corporation, and Westwood Pharmaceuticals, Inc., at Dallas, TX to points in LA for 180 days. Supporting shipper(s): Bristol-Myers Company, 345 Park Avenue, New York, NY 10022. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27, Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135410 (Sub-76TA), filed May 29, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. Munson Trucking, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 W. Touhy Avenue, Park Ridge, IL 60068. *Welding materials and supplies, electric motors, electric welders, hand trucks, and parts and accessories therefor,* from the facilities of The Lincoln Electric Company at Cleveland, OH to points in IL, IN, MI, WI, and Waverly, Waterloo, Dubuque,

Cedar Rapids, Clinton, Davenport, Ottumwa, and Burlington, IA, and Troy, Cape Girardeau, and Caruthersville, MO, and points in their commercial zones for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): Lincoln Electric Company, 22801 St. Clair Avenue, Cleveland, OH 44117. Send protests to: Dave Hunt, T/A, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 136220 (Sub-81TA), filed July, 10, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Foundry coke*, in bulk, from St. Louis, MO, to LaPorte, IN and Browntown, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miller and Company, 55 West Monroe, Chicago, IL 60603. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138741 (Sub-82TA), filed June 15, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joilet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Metal and metal articles*, from the facilities of S–G Metals, Kansas City, KS to points in AR, MO and OK for 180 days. An underlying ETA was granted for 90 days authority. Supporting shippers(s): S–G Metals Industries Inc., 2nd and Riverview, Kansas City, KS. Send protests to:

MC 139041 (Sub-1TA), filed July 9, 1979. Applicant: FRED P. MASSAT, 3955 W. 135th St., Crestwood, IL 60445. Representative: Paul J. Maton, 10 S. LaSalle St., Chicago, IL 60603. *Steel products and steel tubing*, from Chicago, IL to points in IN, OH, and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Regal Tube Co., 7401 S. Linder, Chicago, IL. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 139380 (Sub-3TA), filed July 9, 1979. Applicant: STIDHAM TRUCKING INC., 625 Van Duyan Road, Coburg, OR 97401. Representative: Michael J. O'Neill, P.O. Box 8258, 625 Van Duyan Road, Coburg, OR 97401. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Equipment, materials and supplies* such as are used in the manufacture of containers from points in Los Angeles, Riverside, San Bernardino, Orange, Alameda, Contra Costa, Santa Clara, San Mateo and San Francisco counties, CA to Portland, OR and Kent, WA and points within their respective commercial zones (2) *Empty containers* used in the prior transportation of the commodities named in (1) above from Portland, OR and Kent, WA and points within their respective commercial zones to points in Los Angeles, Riverside, San Bernadino, Orange, Alameda, Contra Costa, Santa Clara, San Mateo and San Francisco counties, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): National Can Corporation, 1657 Rollins Road, Burlingame, CA 94010, 415–692–1000. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 139960 (Sub-2TA), filed June 4, 1979. Applicant: WESTERN PACIFIC TRANSPORT COMPANY 526 Mission Street, San Francisco, CA 94105. Representative: S. T. Rudman (same as applicant). Common carrier; regular routes: *General commodities* except livestock, commodities in bulk, Class A or B explosives, or used household goods, as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *Foodstuffs and Grocers' supplies*, From Marion, East Williamson, Newark, Oaks Corners, Alton, Brockport, Holley, Phelps Shortsville, Egypt, Red Creek, Waterloo, Rushville, Leicester, LeRoy, Oakfield, South Dayton, Rochester, Syracuse, Buffalo, Retsof, Canandaigua, Watkins Glen, Elmira, Williamson, and Horseheads, New York to Paterson, Passaic, Newark, and Jersey City, NJ; and Lackawanna, Luzerne, and Wayne Counties, PA, including points in the commercial zones of the named cities. *Foodstuffs and Grocers' supplies*, From Avenel, Paterson, Passaic, Newark, and Jersey City, NJ, to Binghamton, Waverly, Elmira, Horseheads, Watkins Glen, Olean, Jamestown, Falconer, Buffalo Rochester, Syracuse and Geneva, NY, including points in the Commercial Zones of the named cities, for 180 days. Supporting shipper(s): There are 74 statements in support attached to this application which may be examined at the ICC in Washington, D.C. or copies of which may be examine in the field office named below. Send protests to: D/S N. F. Foster, 211 Main St., Suite 500, San Francisco, CA

Note.—Applicant proposes to interline at all authorized points. An underlying ETA seeks 90 days authority.

MC 140601 (Sub-14TA), filed June 29, 1979. Applicant: BILLY FRANK, d.b.a. FRANK BROS., 349 Abbott Ave., Hillsboro, TX 76645. Representative: James M. Doherty, 500 W. 16th St., P.O. Box 1945, Austin, TX 78767. *Contract carrier*—irregular routes: (1) *Plastic pipe, plastic conduit, vinyl plastic siding and extruded plastic products, and fittings and accessories for such commodities*, from the facilities of Vinylplex, Inc., at or near Pasadena, TX to all points in the United States (except Alaska and Hawaii); and (2) *Materials, equipment and supplies used in the manufacture of the commodities named in (1) above*, between the facilities of Vinylplex, Inc. at or near Pittsburg, KS and Pasadena, TX. Service in (1) and (2) above is to be performed under a continuing contract or contracts with Vinylplex, Inc., of Pittsburg, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vinylplex, Inc., P.O. Box 431, Pittsburg, KS 66762. Send protests to: Martha A Powell, T/A I.C.C., Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 140820 (Sub-14TA), filed June 19, 1979. Applicant: A & R TRANSPORT, INC., 2996 N. IL 71, Ottawa, IL 61350. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Asphalt and road oils*, from Lake County, IN to points in LaSalle County, IL and Livingston County, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. P. Wetherby Construction Corp., Box 309 Ottawa, IL 61350. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 142461 (Sub-4TA), filed July 9, 1979. Applicant: H & W TRUCKING CO., INC., P.O. Box 1545, Mount Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *Contract carrier*, irregular routes; *Fiberboard* from the facilities of Bassett Furniture Industries, Inc. located at or near Henry County, VA to the facilities of Bassett Furniture Industries, Inc. located at or near Macon and Dublin, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bassett Furniture Industries, Inc., Box 626, Bassett, VA 24055. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 142601 (Sub-4TA), filed May 31, 1979. Applicant: CECO TRANSPORT, INC., 5601 W. 26th St., Chicago, IL 60650. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Chicago, IL 60603. *Contract carrier, irregular routes, bottle jar caps* from Summit, IL to Little Rock, AR for the account of Kerr Glass Company for 180 days. An ETA has been granted for

90 days. Supporting shipper(s): Kerr Glass Company, 7224 W. 60th St., Summit, IL 60501. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 143621 (Sub-25TA), filed June 22, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Avenue N., P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). *Iron and steel articles* from Lenoir City, TN to the states of AL, MS, TN, KY, GA, and NC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sheffield Southern Corporation, P.O. Box 338, Lenoir City, TN 37771. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-26TA), filed June 27, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Avenue, North, P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). *Iron and steel articles* from Nashville River Terminal, Nashville, TN to Florence, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nasville River Terminal, 1328 Whites Creek Pike, Nashville, TN. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-28TA), filed July 11, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Avenue, North, P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). *Iron and steel articles* from St. Louis, MO and its commercial zone to plant sites of Heil Quaker Corporation in the state of Tennessee, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heil Quaker Corporation, 1714 Heil Quaker Blvd, LaVergne, TN 37086. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143701 (Sub-15TA), filed June 29, 1979. Applicant: HODGES FREIGHT LINES, INC., 213 Phlox St., Suite, K, Metairie, LA 70033. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. *Sugar, condiments, and flavoring compounds, except in bulk,* from points in LA on and west of the Mississippi River an in the east of Terrebone, Assumption and St. James Parishes to points in AL, AR, FL, GA, IL, IN , IA, KS, KY, MD, MS, MO, NE, NC, OH, OK, PA, SC, SD, TN, TX, VA, and WV, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Southdown Sugars, Inc., P.O. Box 52, New Orleans, LA. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 144351 (Sub-5TA), filed July 13, 1979. Applicant: DON HAUSAUER, DBA Don Hausauer Trucking, Route #5, Carufel Addition, Bismarck, ND 58501. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Pet food, in bags,* from the facilities of Hubbard Milling Company at or near Minneapolis and Mankato, MN, to points in ND, MT, ID and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hubbard Milling Company, 424 North Front Street, Mankato, MN 56001. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 144760 (Sub-3TA), filed June 26, 1979. Applicant: HITTMAN TRANSPORT SERVICES, INC., 2700 Keslinger Road, Geneva, IL 60134. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract carrier:* Irregular routes: (1) *Radioactive waste* moving in shipper-owned containers transported on shipper-owned trailers from Philadelphia Electric Co. at/near Delta, PA to Barnwell, SC and (2) *Empty radioactive shipping containers* from Barnwell, SC, to Philadelphia Electric at/near Delta, PA for 180 days. An underlying ETA seeking 90 days authority was submitted. Supporting shipper(s): Hittman Nuclear & Development Corp., 9190 Red Branch Road, Columbia, MD 21045. Send protest to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 144910 (Sub-6TA), filed June 22, 1979. Applicant: TYREE D. PRUITT, d.b.a. TY PRUITT TRUCKING, 811 Landay Ave., Baltimore, MD 21237. Representative: Chester A. Zyblut, 1030–15th St., NW., Washington, DC 20005. *Electric and gas appliances and parts thereof,* from Columbia, MD to points in VT and NH, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Paul F. Zimmermann, General Electric Company, Appliance Park East, Columbia, MD 21046. Send protest to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 145150 (Sub-9TA), filed July 9, 1979. Applicant: HAYNES TRANSPORT CO., INC., P.O. Box 9, R.R. 2, Salina, KS 67401. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. Anhydrous ammonia facilities of Center Plains Industries, Inc., located at or near Sheerin, TX to CO, KS, OK & NM; for 180 days, common, irregular. Supporting shipper(s): Center Plains Industries, Inc., Box 7970, Amarillo, TX 79109. Send protest to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 145411 (Sub-4TA), filed June 25, 1979. Applicant: WILLIAM V. THOMAS, P.O. Box 544, Ojo Caliente, NM 87549 Representative: Pat Jennings, 9700 2nd NW, Albuquerque, NM 877114. *Gypsum wallboard,* from the facilities of American Gypsum Company at Albuquerque, NM to Los Angeles, CA, Phoenix, AZ, and Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Gypsum, P.O. Box 6345, Albuquerque, NM 87107. Send protest to: DS, ICC, 1106 Federal Office Buiding, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 145441 (Sub-45TA), filed June 19, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). Underlying ETA seeks corresponding authority for 90 days. *Alcoholic beverages* (except in bulk) from points in CA to the facilities of Glazer Wholesale Drug Co., Inc. in Little Rock, AR; Amarillo, Odessa, Forth Worth, Dallas, Houston, San Antonio, Corpus Christi, TX; and Shreveport, Lafayette and Harahan, LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glazer Wholesale Drug Co., Inc., P.O. Box 1768, Dallas, TX 75221. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145441 (Sub-46TA), filed June 19, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). *Foodstuffs* (except in bulk) from the facilities of American Home Foods, Division of American Home Products Corporation, at or near Vacaville, CA to points in TX for 180 days. Supporting shipper(s): American Home Foods, Division of American Home Products Corporation, 685 Third Ave., New York, NY 10017. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145441 (Sub-47TA), filed June 19, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). Underlying ETA seeks corresponding authority for 90 days. *Alcoholic beverages* (except in bulk) from Sonoma, CA to points in TX, for 180

days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sebastiani Vineyards, P.O. Box AA, Sonoma, CA. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145441 (Sub-48TA), filed June 19, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). Underlying ETA seeks corresponding authority for 90 days. (1) *Insulators, electric wiring, and pottery,* and (2) *parts* for commodities from Sandersville, GA to points in AZ, AR, CA, CO, DE, ID, IL, IN, KS, LA, MD, MS, MO, NV, NJ, NM, OH, OK, OR, PA, TX, UT, WA and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lapp Insulator, Division Interpace Corp., P.O. Box 954, Sandersville, GA 31082. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145441 (Sub-49TA), filed June 19, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72201. Representative: E. Lewis Coffey (same address as applicant). Underlying ETA seeks corresponding authority for 90 days. *Frozen foods* (except in bulk) from the facilities of American Home Foods, Division of American Home Products Corp. at or near Milton, PA to points in AR, CA, OR, KS, WA and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Home Foods, Division of American Home Products Corporation, 685 Third Avenue, New York, NY 10017. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145680 (Sub-4TA), filed July 2, 1979. Applicant: C & R TRUCKING, LTD., 2955 Packers Ave., Madison, WI 53704. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Sewerage treatment plants, aerators, lift stations and parts and accessories thereto* from facilties of Clow Corp. at or near Richwood, KY to points in the U.S. except AK & HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clow Corp., 1211 W. 22nd St., Oak Brook, IL 60521. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145680 (Sub-5TA), filed June 29, 1979. Applicant: C & R TRUCKING, LTD., 2955 Packers Ave., Madison, WI 53704. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Sewage treatment plants covers* from Necedah, WI to points in the U.S. except AK & HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clow Corp., 1211 W. 22nd St., Oak Brook, IL 60521. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145710 (Sub-2TA), filed July 9, 1979. Applicant: CHARLES ALBERT MACON, d.b.a. MACON FARMS TRUCK AND TRUCK LEASING, 101 Evans Road, Cheraw, SC 29520. Representative: Robert W. Gerson 1400 Candler Building, Atlanta, GA 30303. *Contract carrier;* over irregular routes; *Rolls of pulpboard and fibreboard, not corrugated,* between Florence, SC and all points in CT, FL, GA, IL, IN, KY, ME, MD, MI, MN, MO, NJ, NC, OH, PA, TN, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): South Carolina Industries, Inc., P.O. Box 4000, Florence, SC 29502. Send protests to: E. E. Strotheid, D/S ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 145950 (Sub-29TA), filed June 28, 1979. Applicant: BAYWOOD TRANSPORT, INC., Route 6, Box 2611, Waco, TX 76706. Representative: Arthur W. Grimes (same address as applicant). *Meat, meat products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Swift & Co., at Sioux City, Glenwood, and Marshalltown, IA; Omaha, NE; Guymon, OK; Clovis, NM; and Cactus, TX, to AL, GA, TN, NC, SC, MD, DE, VA, CA, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Martha A. Powell, T/A, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145950 (Sub-30TA), filed July 2, 1979. Applicant: BAYWOOD TRANSPORT, INC., Route 6, Box 2611, Waco, TX 76706. Representative: Arthur W. Grimes (same address as applicant). *Foodstuffs,* from the facilities of Anderson Clayton Foods, at or near Sherman, TX, to Denver, Colorado Springs, and Pueblo, CO; and Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Clayton Foods, P.O. Box 226165, Dallas, TX 75266. Send protests to: Martha A. Powell, T/A, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145970 (Sub-3TA), filed June 25, 1979. Applicant: SKILLET AND SONS TRUCKING, Rush Center, KS 67575. Representative: Erle W. Francis, Suite 719, 700 Kansas Ave., Topeka, KS 66603. Contract carrier: *Paper* from Hutchinson, KS, Pryor, OK and Denver, CO to the facilities of American Gypsum Co., Albuquerque, NM; *Starch* from Dodge City, KS and Plainview, TX to the facilities of American Gypsum Co. at Albuquerque, NM; *Wallboard* from facilities of American Gypsum Co. at Albuquerque, NM, to points and places in AZ, CO, KS, NE, ND, OK, SD, TX & WY; for 180 days, irregular routes. Supporting shipper(s): American Gypsum Co., P.O. Box 6345, Albuquerque, NM 87103. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 145981 (Sub-10TA), filed June 28, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Chemicals and compounds, and materials, equipment and supplies* used in the manufacture and sale of chemicals compounds (except commodities in bulk) between Boonton, Kearny and Harrison, NJ; Chicago, IL; and Houston, TX, on the one hand, and, on the other, Los Angeles and San Francisco, CA; Portland, OR; Pocatello, ID; Seattle, WA; and Green River, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Drew Chemical Corporation, One Drew Chemical Plaza, Boonton, NJ 07005. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146071 (Sub-16TA), filed July 5, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Frozen prepared foodstuffs* from facilities of Kitchens of Sara Lee at Deerfield, IL to points in ND & SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kitchens of Sara Lee, 500 Waukegan Rd., Deerfield, IL 60015. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146121 (Sub-1TA), filed June 28, 1979. Applicant: BAY CARTAGE COMPANY, P.O. Box 4363, Muskegon, MI 49444. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. *Contract Carrier:* irregular routes: *Paper and paper products and materials* used in the manufacture and distribution thereof; between the facilities of S. D. Warren Paper Company, A division of Scott

Paper Company, located in Muskegon, MI on one hand, and points in PA, NY, NJ, ME, MA, CT, RI, VT, and NH on the other hand. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S. D. Warren Paper Company, 2400 Lakeshore Drive, Muskegon, MI 49441. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 146251 (Sub-3TA), filed June 25, 1979. Applicant: CLAXTON TRANSPORT, INC., Route 3, Box 135, Wrightsville, GA 31096. Representative: Ronald K. Kolins, 333 N. Fairfax St., Suite 202, Alexandria, VA 22314. (1) *Newsprint paper* (2) *waste newspaper, cores and other supplies, materials and equipment used in the manufacture of newsprint paper* (1) from Laurens County, GA to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, IN, TX, VA, WV (2) from points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA and WV to Laurens County, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeast Paper Manufacturing Co., P.O. Box 1169, Dublin, GA 31021. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 146340 (Sub-1TA), filed March 5, 1979. Applicant: D. L. WILLIAMS TRUCKING, INC., P.O. Drawer 818, Hillsboro, TX 76645. Representative: James W. Hightower, 1st Continental Bank Bldg., Suite 301—5801 Marvin D. Love Freeway, Dallas, TX 75237. Contract authority, irregular routes: Lumber, poles, posts and granite, from Huxford and Mobile, AL, DeQueen, AR, Urania, LA, Gulfport, MS, Houston and Hillsboro, TX, Navajo, NM, Snowflake, AZ, and Decherd, TN, to points in AL, AR, AZ, CO, FL, GA, IL, IN, IA, KS, KY, LA, MS, MO, NE, NM, NC, OH, OK, SC, TN, TX, VA, and WV for 180 days. Supporting shipper(s): D. L. Williams Wood Products, Inc., P.O. Drawer 818, Hillsboro, TX 76645. Send protests to: Martha Powell, TA, ICC Rm 9A27, Federal Bldg., Ft. Worth, TX 76102.

MC 146461 (Sub-3TA), filed March 9, 1979. Applicant: J H TRUCKING, INC., Route 4, BX 112, Amarillo, TX 79119. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Meat, meat products, meat by-products, and articles distributed by meat packing houses as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from the facilities of Booker Custom Packing Co., Booker, TX to points in the US (except AK and HI) for 180 days. Supporting shipper(s): Booker Custom Packing Co., Box 290, Booker, TX 79005. Send protests to: Martha Powell, TA, ICC Rm 9A27, Federal Bldg., Ft. Worth, TX 76102.

MC 146551 (Sub-3TA), filed June 25, 1979. Applicant: TAYLOR TRANSPORT, INC., P.O. Box 285, Grand Rapids, OH 43522. Representative: Arthur R. Cline, 420 Security Bldg., Toledo, OH 43604. *Corrugated fiber boxes and paper articles, KD Flat, paper, and equipment, materials, and supplies used in the preparation and distribution of these commodities (except in bulk)*, between Bowling Green, Ohio, on the one hand, and, on the other, points in the United States, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Box Company, 445 Ridge Street, Bowling Green, Ohio 43402. Send protests to: D/S, ICC, 101 N. 7th Street, Philadelphia, PA 19106.

MC 146681 (Sub-2TA), filed July 3, 1979. Applicant: DUTCH MILL TRUCKING, INC., R.R. 1, Sparta, Wisconsin 54656. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Ferrous and non-ferrous metals and metal articles* from facilities of Central Steel & Wire Co. at Chicago, IL to points in LaCrosse, Douglas, Pepin, Vernon, Monroe, Jackson, Trempealeau, Buffalo, Clark, Eau Claire, Dunn, Pierce, St. Croix, Chippewa, Taylor, Price, Rusk, Barron, Polk and Washburn Counties, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Steel & Wire Co., 3000 W. 51 St., Chicago, IL 60632. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146880 (Sub-1TA), filed June 1, 1979. Applicant: LOWELL DENTON, d.b.a. DENTON CARTAGE COMPANY, 7322 West 90th, Bridgeview, IL 60455. Representative: Lowell E. Denton, P.O. Box 40, Palos Park, IL 60464. *General commodities, (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), restricted to traffic having a prior or subsequent movement by air, rail, or water* between points in IA, IL, IN, MI, WI, OH, New York City, NY Commercial Zone and Baltimore, MD for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): 4 Supporting shippers. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 146890 (Sub-8TA), filed June 28, 1979. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., Washington, DC 20001. *Animal feed and feed ingredients* (except in bulk), from the facilities utilized by Kal Kan Foods, Inc., at Birmingham, AL, to the facilities of Kal Kan Foods, Inc., at Columbus, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kal Kan Foods, Inc., 3386 E. 44th St., Vernon City, CA 90058. Send protests to: D/S, ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 147240 (Sub-1TA), filed May 18, 1979. Applicant: NATIONAL FREIGHT CONSULTANTS, d.b.a. NATIONAL FREIGHT SYSTEMS, 2848 Norland Avenue, Burnaby, B.C., Canada V5B 3A6. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. *Crushed scrap automobiles*, from Ports of Entry on the U.S./Canada Boundary line in WA and ID to Tacoma, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Scrap City Scrap Metal Industries Ltd., 3415 Ogden Rd. SE., Calgary, AB. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 147390 (Sub-1TA), filed June 21, 1979. Applicant: C. D. HALL, d.b.a. E. M. BRAZIL TRUCKING COMPANY, 68 North Street, Middleboro, MA 02346. Representative: C. D. Hall (same address as applicant). Contract-irregular, *Hides and other materials used or useful in the manufacturing, processing and marketing of leather and leather products manufactured by Columbia Tanning Corporation*, between the shipping points of Columbia Tanning Corporation located at Brockton, MA and Baltimore, MD, on the one hand, and, on the other, points in NY, PA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Columbia Tanning Corporation, 101 Belmont Street, Brockton, MA 02401. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset St., Room 102, Providence, RI 02903.

MC 147391 (Sub-1TA), filed June 11, 1979. Applicant: LOYD RUDY, d.b.a. LOYD'S HOT SHOT SERVICE, 1300 New Hampshire Space 64, Rock Springs, WY 82901. Representative: A. M. Rudy (same address as applicant). (1) *Machinery, equipment and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing,

storage, transmission and distribution of natural gas and petroleum and their products and by products, and (2) *machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, restricted against the transportation of complete oil drilling rigs, between points in WY, CO, UT, ID, MT, ND, SD and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are eight (8) shippers. Their statements may be examined at the office listed below or at Headquarters. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105, Federal Bldg. & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 147510 (Sub-1TA), filed June 29, 1979. Applicant: QUARRY TRUCK CO., INC., 74 Foster Road, Southwick, Massachusetts 01077. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. Contract carrier: irregular routes: *Books, paper and printed material*, from MA and NY to points in MA, CT, NY and PA, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Waldman Publishing Corp., 18 E 41st Street, New York, NY 10017. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 147511 (Sub-1TA), filed June 20, 1979. Applicant: EAST CAROLINA CARTHAGE CO., P.O. Box 1245, Kinston, NC 28501. Representative: W. G. Reese III, P.O. Box 3004, Charlotte, NC 28203. *Cores or tubes* between the facilities of Alton Boxboard Company at or near Jacksonville, NC on the one hand, and points and places in NC and SC on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alton Boxboard Company, P.O. Box 398, Jacksonville, NC 28540. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 147521 (Sub-2TA), filed July 9, 1979. Applicant: J. S. I. 605 E. Commercial Street, Anaheim, CA 92801. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. *Foodstuffs, except in bulk*, originating at facilities of the Coca-Cola Co.—Foods Division in Anaheim and Placentia, CA to points in Maricopa County, AZ, for 180 days. Supporting shipper(s): The Coca Cola Co., Foods Division, 1226 N. Olive Street, Anaheim, CA 92801. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 147551 (Sub-1TA), filed June 26, 1979. Applicant: EL SYD, INC., 13105 Mountain Shadow NE, Albuquerque, NM 87111. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. *Corn starch, except in bulk*, from Dimmitt, TX to points and places in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amstar Corporation, P.O. Box 169, Dimmitt, TX 79027. Send protests to: DS, ICC, 1106 Federal Office Building 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 147560 (Sub-1TA), filed June 27, 1979. Applicant: GEE EL TRANSPORTATION OF TENNESSEE, INC., 2500 S. Harbor Blvd. Melbourne, FL 32901. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Contract carrier;* Irregular routes; *Transporting: such commodities as are dealt in or used by wholesale and retail grocery houses, drugstores and variety stores*, between the facilities of Peyton's Southeastern, Inc., at or near Cleveland, TN to points in AL, AR, GA, KY, MS, MO, NC, OH, SC, TN, TX, VA, and WV, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Peyton's Southeastern, Inc., Refreshment Lane, Appalacian Industrial Park, Cleveland, TN. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 147610 (Sub-1TA), filed July 12, 1979. Applicant: BARRY CARTAGE COMPANY, 895 North Prior Avenue, St. Paul, MN 55104. Representative: Duane D. Taylor (same address as applicant). *Contract carrier:* irregular routes: *General commodities, except commodities in bulk, household goods as defined by the Commission, class A and B explosives, and those which because of size or weight require the use of special equipment* between points in Minneapolis-St. Paul, MN and its commercial zone and Duluth and Gilbert, MN, under a continuing contract(s) with Target Stores, a division of Dayton-Hudson Corp., Fridley, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Target Stores, a division of Dayton-Hudson Corp., 7120 Highway 65 Northeast, Fridley, MN 55432. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-25132 Filed 8-14-79; 8:45 am]

BILLING CODE 7035-01-M

[No. MC 111812 (Sub-583)E]

Midwest Coast Transport, Inc., Extension-Personal Care (Sioux Falls, S. Dak.)

Decided: July 25, 1979.

Applicant seeks a certificate of public convenience and necessity authorizing the operations substantially as set forth in the appendix. The evidence has been considered under the modified procedure. The application, as amended, is opposed by Bowman Transportation, Inc., a motor common carrier. Applicant filed a rebuttal statement.

The Gillette Company, the supporting shipper, is a large manufacturer of a diverse group of personal care products. Yearly volumes of traffic from Andover, MA, and LaMirada, CA* are indicated. Based upon its increases in production and equipment available, Gillette estimates that it will tender to applicant at least 4 to 6 loads of products weekly if the application is granted. Specified representative origins and destinations points are noted.

Traffic currently moves by common and contract carriers and rail trailer-on-flat car. Gillette requires an irregular-route, scheduled, and responsive motor vehicle transportation service with temperature-controlled, high-cube trailers embracing a broad range of multiple deliveries to customers in the destination territory. Gillette mentions that Bowman does a commendable job in handling its traffic at Atlanta, GA, but it indicates that protestant is handicapped in its ability to serve Andover during winter months because it does not have proper equipment. Gillette also criticizes regular-route service.

In general, protestant offers mostly regular-route, general commodities transportation service from Andover to points in Georgia and Florida and Arlington and Dallas, TX. Bowman is a very large motor common carrier and has nationwide terminals, vast

* The application was filed August 7, 1978, and at that time PaperMate Division, a facility of Gillette, shipped its products from Santa Monica, CA, the involved origin point in part (2) of the application. However, in the latter part of November 1978 shipping procedures were changed and redirected from Santa Monica to Gillette's distribution center in La Mirada, CA. (It is true that conceivably there will still be some traffic moving from Santa Monica.) Consequently, a need is expressed by Gillette for service at the additional origin point of La Mirada.

equipment, and offers a wide array of transportation service. It does not show it has handled the subject traffic.

A public need for the proposed service has been demonstrated. Gillette requires a very responsive, irregular-route transportation service from a motor carrier with appropriate equipment and the ability to render multiple-stop deliveries throughout the destination territory. Applicant proposes just such a service that will be responsive to the needs of Gillette.

Bowman does not show to have handled the subject traffic further, there is insufficient evidence otherwise to indicate the protestant's operations will be impaired or endangered to an extent which would be contrary to the public interest as a result of a grant of authority here.

We believe that the benefit to Gillette of having applicant's proposed operations outweighs any potentially deterimental effect to protestant. Also, the evidence does not establish that applicant's competition to Bowman would be unhealthy, for even after the grant of authority protestant can still compete for Gillette's traffic.

The shipper evidence demonstrates a need for service embraced by the application as originally filed and subsequently changed. "Personal care products" embrace several items specifically named in the authority sought.

Since the service to be authorized is broader in scope than the authority published in the **Federal Register**, a republication condition will be imposed. Issuance of a certificate will be withheld and interested parties shall be given 30 days after the date of republication to file appropriate pleadings setting forth the manner in which they have prejudiced.

We find: The present and future public convenience and necessity require operation by applicant, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, U.S. Code, Subtitle IV, and the Commission's regulations. An appropriate certificate should be granted. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: The application is granted to the extent set forth in the appendix.

Operations may begin only following the service of a *certificate* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310).

Compliance with these requirements must be accomplished within 90 days after the date of service of this decision or the grant of authority in this decision shall be void.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,

Secretary.

Appendix

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transportating *cigarette lighters, portable appliances, writing instruments, stationery products, and personal care products*, (1) from Andover, MA, to Kent, WA, Atlanta, Morrow, Forest Park, and Newnan, GA, Sparks, NV, Lawrence, KS, Arlington and Dallas, TX, and points in CA and FL, and (2) from Santa Monica and La Mirada, CA, to Andover, MA, La Grange Park, IL, Lawrence, KS, Arlington and Dallas, TX, and Newnan, GA, restricted to the transportation of traffic originating at the facilities of the Gillette Company and further restricted in (1) and (2) against the transportation of commodities in bulk.

CONDITION: The certificate shall be withheld for a period of 30 days from the date of publication in the **Federal Register** of a notice of the authority actually granted in this proceeding.

[FR Doc. 79-25134 Filed 8-14-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 368]

Increased Freight Rates and Charges, Nationwide—1979; Authority To File Master Tariff

Decided: August 8, 1979.

By petition and verified statements filed July 26, 1979, United States railroads, and certain water and motor carriers having joint rates with those railroads, seek authority to increase freight rates and charges generally by 9 percent within Eastern Territory, 7.8 percent within Western Territory and between the West and East, and 6.4 percent within Southern Territory and between Southern Territory and the East or West. Rate adjustments above and below the general patterns are proposed on a number of commodities. The average increase nationwide is 8.0 percent. These increases are exclusive of the fuel cost pass-through authorized in Ex Parte No. 311. A copy of the petition and verified statement may be obtained from Albert B. Russ, Jr., 527 American Railroads Building, 1920 L Street, N.W., Washington, D.C. 20036.

Petitioners seek permission to make the proposed increase effective October 1, 1979, subject to the condition that refunds shall be made in the event that, after any investigation that the Commission deems necessary, no increase or a lesser increase than that requested is authorized. Petitioners also seek entry of a decision modifying all outstanding Commission decisions to the extent necessary to enable the railroads to file and make effective the proposed increased rates and charges. We are also requested to allow the entry of appropriate decisions under former sections 4 and 6 of the Interstate Commerce Act. (49 USC §§ 10726 and 10761–65).

The petitioners have filed and served 60 verified statements constituting their evidential case pursuant to the requirements set forth in Ex Parte No. 290, *Procedures Governing Rail Carrier General Increase Proceedings*, 49 CFR 1102, effective January 1, 1978. Petitioners have also submitted data of the type called for in Ex Parte No. 290 (Sub-No. 1), *Procedures—Rail Car General Increase Proceedings*, 349 I.C.C. 22 (1974), namely detailed information on estimated revenues which would have been obtained had the last authorized increase been fully applied, and the actual total increase in revenues realized by application of the last authorized general increase.

The petitioners have given notice of the petition and have furnished data to the public in compliance with Ex Parte No. 286, *Notice of Increases in Frt. Rates and Pass. Fares*, 349 I.C.C 741 (1975), and with former section 5b of the Interstate Commerce Act (49 USC 10706).

The petitioners have also submitted information of the type called for in Ex Parte No. 55 (Sub-No. 4), *Revised Guidelines for the Implementation of the National Environmental Policy Act of 1969*, 352 I.C.C. 451 and 49 CFR 1108, namely a supplemental evaluation of environmental considerations with regard to the petitioners' increased rate proposal. The petitioners contend that the requested increases will have no significant adverse effects upon the movement of the traffic or transportation of recyclable commodities by rail. Any person or

persons believing that the requested increases, if authorized, would have a significant impact upon the quality of the human environment are invited to comment upon this matter in verified statements authorized to be filed pursuant to this decision. Environmental matters and the requirements of the National Environmental Policy Act of 1969 will be considered by this Commission in any subsequent action on the merits of the requested general increases.

The petitioners contend that the proposed increases do not violate President Carter's voluntary wage and price guidelines. We regard this as an important issue in this proceeding. Parties are invited to comment upon this matter in their verified statements, and we will consider it in our subsequent decision on the merits of the requested increases.

The petitioners have requested that certain of the evidence submitted by them be treated as confidential by the Commission and not be released to the general public. We deny this request. The railroads have filed a petition in Ex Parte No. 290 which requests similar confidential treatment of evidence. We will deal with the issue of confidentiality in our decision on that petition.

It is ordered:

1. All common carriers by railroad are made respondents to this proceeding.

2. Under the special permission authority granted in conjunction with this decision, the tariff schedules shall be published and filed upon not less than 30 days'[1] notice effective not earlier than October 1, 1979, nor later than November 15, 1979, *subject to protest and possible suspension.* These schedules are to contain an appropriate refund provision.

3. Any person opposing or wishing to comment on the proposed increase in rates and charges shall file and serve verified statements, as provided below, on or before September 6, 1979.[2]

(a) The verified statements shall contain all relevant evidence which the parties desire to have considered by the Commission as a basis for a decision on the merits. Any submissions on asserted environmental and energy impacts shall be segregated under an appropriate subheading.

(b) Verified statements may include arguments in support of an affiant's position, but arguments shall be segregated in a separate section of the document containing the verified statement or contained in a separate document simultaneouslty filed and served.

(c) Each verified statement shall be signed in ink by affiant and verified (notarized) in the manner provided by Rule 48 and Form No. 6 of the Commission's Rules of Practice (See 49 1100.48 and Appendix B, Form No. 6, to 49 CFR 1100). The post office address of affiant or his counsel shall be shown.

(d) Verified statements and arguments shall be filed and served as follows:

The original and 20 copies of each document for the use of the Commission shall be addressed to the Secretary, and sent to the Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, D.C. 20423, except that a lesser number of copies may be filed upon a showing of good cause. All documents filed with the Commission in this matter shall contain the following notation on the envelope: Ex Parte No. 368.

One copy shall be served upon the representative of the petitioning railroads, Albert B. Russ, Jr., 527 American Railroads Building, 1920 L Street, N.W., Washington, D.C. 20036, which service shall constitute service upon all respondents. However, all parties able to do so shall serve 20 copies upon the railroads' representative. In all cases, where service is made by mail, the document shall be mailed in time to be received by the respective due dates.

(e) Each verified statement shall contain a certificate of service stating that it has been timely served on opposing parties.

(f) Verified statements and aruguments by persons opposed to the proposed increases in rates and charges shall include all matters which they desire the Commission to consider with respect to statutory suspension of the rates pending completion of the investigation, as well as evidence relevant to the ultimate decision.

4. On or before September 12, 1979, the respondents shall file with the Commission and serve upon opposing parties their replies to protests or other pleadings and rebuttal evidence. Rebuttal evidence shall be filed in accordance with the regulations published in 49 CFR 1102, governing opening statement, except that replies and rebuttal evidence need be served only upon the party (and his counsel if known) to whose evidence the reply or rebuttal is directed. However, replies or rebuttal statements proposing changes in the tariff shall be served on all parties. All such statements shall be furnished to interested parties upon request.

5. The Commission plans to act upon these proposed increases sufficiently in advance of their effective date to give parties adequate notice.

6. The request for fourth-section relief will be considered following the filing of verified statements and replies.

By Speical Permission Order No. 79-3270 served in conjunction with this decision, the Commission is authorizing the filing of tariff schedules increasing rates and charges sought in the petition. These tariff schedules are to become effective upon not less than 30 days' notice to the Commission and the general public, subject to protest and possible suspension as provided by the Interstate Commerce Act. All documents filed with the Commission in this matter shall contain the following notation on the envelope: Ex Parte No. 368.

It is ordered:

1. All United States railroads, and water and motor carriers to the extent they have joint rates with the railroads, and their tariff-publishing agents, are authorized to depart from the Commission's tariff publishing rules in Tariff Circular No. 20 (49 CFR 1300), when publishing and filing tariffs, and tariff amendments, to become effective upon not less than 30 days' notice to the Commission and the public but not earlier than October 1, 1979, nor later than November 15, 1979, providing for increased rates and charges as set forth in the petition.

(a) By publishing and filing a master tariff of increased rates and charges, and supplements to the master tariff, providing increases by means of conversion tables of rates and charges, which shall include, and maintain in effect, a refund provision reading as follows:

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increases resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with —— percent interest.[3]

[1] In the event the tariff is not filed prior to August 13, 1979, the due date specified for the filing of protests and verified statements will be extended to a date 20 days prior to the effective date, and the reply date will be correspondingly extended.

[2] Section 10707(c) of the Interstate Commerce Act specifically requires the filing of *verified complaints* seeking suspension of proposed rate changes.

[3] The interest rate to be inserted in the refund provision shall be equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. See Section 10707(d) of the Interstate Commerce Act.

In the event any increase resulting from the application of the tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with —— percent interest.[4]

The master tariff shall be conditioned to expire on a date not more than one year after the effective date, and all relief granted in this decision expires with that date, which may not be extended or cancelled except upon specific authorization of this Commission. Respondents are placed on notice that they must comply with the regulations in 49 CFR 1300.32 governing the transfer of railroad general increases from master tariffs. The master tariff must initially contain all provisions necessary to permit application of every aspect of this proposal. Subsequently, provisions other than those of a general character may be cancelled and transferred to the particular tariff affected upon a common effective date with appropriate notation to that effect in the master tariff.

(b) By publication and filing of a connecting link supplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs).

(c) The master tariff and connecting link supplements issued and filed under this decision shall not provide for nonapplication on interstate traffic competitive with intrastate traffic between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements.

(d) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariffs and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publication is identified in the tariffs and made subject to a refund clause worded substantially as in paragraph 1(a) above.

(e) By publication of provisions in tariffs or amendments subjecting rates and charges to the provisions of the master tariff, subject to the restriction in (c) above.

2. (a) The master tariff, as amended, and all other tariffs and amendments to tariffs, that employ the shortform methods authorized here shall bear the notation: Form of publication authorized, I.C.C. permission No. 79–3270.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges shall bear a notation reading: Publication made in accordance with I.C.C. permission No. 79–3270.

3. Connecting-link supplements authorzied here shall be exempted from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

4. The master tariff filed under this decision shall not be amended except to correct errors and to comply with findings and orders of the Commission, without specific authorization. The terms of rule 9(e) (40 CFR 1300.9(e)) are not waived as to supplements to the master tariff.

5. Tariff publishing agents must furnish a copy of the master tariff to subscribers of all tariffs which are governed by the master tariff. This must be done not later than the date that copies are sent to the Commission. When there is more than one tariff of a subscriber governed by the master tariff, only one copy of the master tariff need be furnished to the subscriber unless additional copies are requested.

6. Outstanding decisions of the Commission are hereby modified only to the extent necessary to permit the filing of tariff publications containing the proposed increases, and all tariff publications filed shall be subject to protest and possible suspension and rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 288, 336, and *Increased Freight Rates, 1970 and 1971*, 339 I.C.C. 125, 188.

Notice of the filing of a railroad general increase petition will be given by sending a copy of this decision to each party to the Ex Parte No. 357 proceeding, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register for publication in the **Federal Register.**

By the Commission, Chariman O'Neal, Commissioners Stafford, Gresham, Clapp, Christian, Trantum and Gaskins.

Commissioner Gresham not participating in the disposition of this proceeding.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-25133 Filed 8-14-79; 8:45 am]

BILLING CODE 7035-01-M

[4] See footnote 3.

Fourth Section Applications for Relief

August 10, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C. Expedited handling of these applications have been granted.

FSA No. 43727, Illinois Central Gulf Railroad Company No. 79–1, reduced rates on corn and soybeans, in carloads, from stations in Iowa and Minnesota, to Chicago, Ill. in Supplement 76 to Tariff ICC ICG 4010 and Supplement 79 to Tariff ICC ICG 4011, effective September 5, 1979, and to expire with March 5, 1980. Authority has been requested to advance the effective date to earliest possible date.

FSA No. 43732, Southern Freight Association No. A–6352, reduced rates on furniture between Southern Railway stations in Southern Territory in Supplement 53 to Tariff ICC SFA 4972, effective September 8, 1979, and to expire with September 30, 1979. Authority has been requested to advance effective date to earliest possible date.

Protests against granting of long-and-short-haul relief requested in the above applications, are due at the offices of the Commission, Suspension and Fourth Section Board, in Washington, D.C., not later than noon, August 20, 1979. Telegraphic filing with indication of notarization is acceptable.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-25214 Filed 8-14-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Applications for Relief

August 10, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of this notice.

FSA No. 43726, Southwestern Freight Bureau, Agent, No. B–9, paper and paper articles, in carloads, from Fond du Lac, Wis., to points in Southwestern Territory, in Supp. 95 to Southwestern Freight Bureau, Agent Tariff ICC SWFB 4571, effective September 7, 1979. Grounds for relief —market competition.

FSA No. 43728, Southwestern Freight Bureau, Agent, No. B–15, In Supp. iron or steel pipe and related articles, in carloads, from points in Eastern and Southern Territories to Fauna, Tex., in Supp. 200 to its Tariff ICC SWFB 4853, effective September 5, 1979. Grounds for relief—rate relationship.

FSA No. 43729, Southwestern Freight Bureau, Agent, No. B–18, petroleum and petroleum products, from Carrizo Springs, Tex., points tin Southwestern Territory, in Supp. 166 to its Tariff ICC SWFB 4679, effective September 18, 1979. Grounds for relief—market competition.

FSA No. 43730, Southwestern Freight Bureau, Agent, No. B–19, pipe or tubing, iron or steel, in carloads, from New Orleans, La., to station in New Mexico, in Supp. 201 to its Tariff ICC SWFB 4853, effective September 4, 1979. Grounds for relief—Market competition.

FSA No. 43731, Southwestern Freight Bureau, Agent, No. B–20, acrylonitrile, in tank carloads, from Dowling Tex., to Dow and Waynesboro, Va., in Supp. 22 to its Tariff ICC SWFB 4615, effective September 4, 1979. Grounds for relief—reduced minimum weights.

FSA No. 43733, Southwestern Freight Bureau, Agent, No. 540, bicycles, bicycle parts, and other commodities from points New Jersey, Ohio, and Pennsylvania, to Phoenix, Ariz. and points in California, to be published in its Tariff ICC TACFB 3001. Grounds for relief—motor competition and improved car utilization.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–25215 Filed 8–14–79; 8:45 am]

BILLING CODE 7035–01–M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 159
Wednesday, August 15, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 10 a.m., Wednesday August 15, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the public.

MATTERS TO BE DISCUSSED:

1. *Briefing on Acetaminophen: Final PPPA Rule* (Rescheduled from 8/8/79).—The staff will brief the Commission on issues related to a draft final rule to require child-resistant packaging on oral drugs containing more than one gram of acetaminophen in a single package. The Commission proposed this regulation in February 1978.

2. *Uniform Safety Alert Symbol.*—The staff will brief the Commission on proposed statement of policy about the use of a uniform symbol and statement on envelopes and letterheads of safety-related notifications.

3. *Miniature Christmas Tree Lights.*—The staff will brief the Commission on the status of the miniature Christmas tree light voluntary standard effort.

4. *Carbon Water Filters Petition, CP 79-19.*—The staff will brief the Commission on a petition from Dr. Robert R. Austin requesting the issuance of a consumer product safety rule banning those home-use water filters containing activated carbon and no bacteriostat.

5. *CB Antennas Notice of Proceeding.*—The staff will brief the Commission on the draft notice of proceeding to develop a standard for omnidirectional CB antennas.

Agenda approved August 7, 1979.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, Telephone (202) 634-7700.

[S-1621-79 Filed 8-13-79; 3:29 pm]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 10:30 a.m., Friday, August 10, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Asbestos—General.*—The staff will brief the Commission on strategies concerning asbestos in consumer products.

2 p.m.

2. *Budget.*—The staff and Commission will continue their discussion of issues related to CPSC's proposed budget for fiscal year 1981.

Agenda approved August 7, 1979.

CONTACT PERSON FOR ADDITIONAL INFORMATION. Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephine (202) 634-7700.

[S-1622-79 Filed 8-13-79; 3:29 pm]

BILLING CODE 6355-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: 9:30 a.m., Thursday, August 16, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS:

A. *Open to the Public.*

MATTERS TO BE DISCUSSED:

1. *Sleepwear Enforcement Policy.*—The Commission will consider reissuing an enforcement policy statement concerning children's sleepwear in sizes 0-6X originally published by the Federal Trade Commission and proposing to issue the same policy statement for children's sleepwear in sizes 7-14. The two statements set forth the factors that CPSC will consider in deciding whether particular fabrics or garments are covered by the two standards for flammability of children's sleepwear.

2. *Powered Lawn Edgers and Trimmers Petition, CP 78-7* (Rescheduled from 8/9/79).—The Commission will consider a petition from Gerald Price of Fullerton, California, concerning gasoline- and electric-powered lawn edgers and trimmers. In the petition, Mr. Fuller asks that the Commission initiate a proceeding to develop mandatory requirements to address the hazard of thrown objects, and suggest requirements for instructions concerning the use of a face mask or safety goggles when using these trimmers. The staff briefed the Commission on this petition on July 18.

3. *Unlicensed Two-Wheel Motorized Vehicles Petition, CP 79-4* (Rescheduled from 8/9/79).—The Commission will consider a petition in which Drs. Frederick Rivara and Lawrence Berger request mandatory safety requirements for unlicensed two-wheeled motorized vehicles. The staff and Commission discussed this petition at the July 18 Briefing.

4. *Modification of National Electronic Injury Surveillance System (NEISS).*—The Commission will consider a Hazard Identification and Analysis proposal to broaden the hazard identification injury data collection activities.

B. *Closed to the Public:*

5. *Section 15 Corrective Action Plan.*—The Commission will consider a proposed voluntary corrective action plan on a product which may pose a substantial product hazard.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone (202) 634-7700.

[S-1623-79 Filed 8-13-79; 3:29 am]

BILLING CODE 6355-01-M

[1] Revised agenda approved August 9, 1979.

4

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 9:30 a.m., Thursday, August 23, 1979.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Fuel Sentry Corporation, thermostats, ID 78-105.*—The Commission will consider the issuance of a public notice in this matter involving possible fire hazards associated with certain automatic day/night thermostat controls.

2. *Scovill Manufacturing, electric heater, ID 78-54.*—The Commission will consider a voluntary corrective action plan in this matter involving a possible shock hazard

associated with certain portable electric heaters.

3. *Acetaminophen: Final PPPA Rule.*—The Commission will consider a draft final rule to require child-resistant packaging on oral drugs containing more than one gram of acetaminophen in a single package. The Commission proposed this regulation in February 1978.

4. *Uniform Safety Alert Symbol.*—The Commission will consider a proposed statement of policy about the use of a uniform symbol and statement on envelopes and letterheads of safety-related notifications.

5. *Carbon Water Filters Petition, CP 79-19.*—The Commission will consider a petition from Dr. Robert R. Austin requesting the issuance of a consumer product safety rule banning those home-use water filters containing activated carbon and no bacteriostat.

6. *CB Antennas Notice of Proceeding.*—The Commission will consider a draft notice of proceeding to develop a standard for omnidirectional CB antennas.

7. *Asbetos—General.*—The Commission will consider strategies concerning asbestos in consumer products.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone (202) 634-7700.

Agenda approved August 7, 1979.

[S-1624-79 Filed 8-13-79; 3:29 pm]

BILLING CODE 6355-01-M

5

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 10 a.m., Wednesday, August 22, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the public.

MATTERS TO BE DISCUSSED:

1. *Methylprednisone: Final PPPA Rule.*—The staff will brief the Commission on the issuance of a final exemption for the anti-inflammatory steriod drug methylprednisone. Upjohn Company petitioned the Commission to exempt from child-resistant packaging requirement methylprednisone when packaged in a mnemonic package form, 21 4mg. tablets intended for 6 days of countdown therapy. On October 17, 1978, the Commission published a proposed exemption in the Federal Register.

2. *Possible Extension of the Small Parts Regulation.*—The staff will brief the Commission on a proposal to initiate a project which would extend the scope of the small parts regulation to products intended for children up to the age of 5 years and to propose cautionary labeling to address choking hazards for products intended for older children.

3. *Architectural Glazing: Weathering Amendment.*—The staff will brief the Commission on proposing a partial revocation of the Architectural Glazing Standard by eliminating the requirement that plastic glazing materials comply with an accelerated environmental durability test.

4. *Energy Product Rule.*—The staff will brief the Commission on a draft rule to gather information on certain energy conservation devices.

5. *Energy Conservation Devices Status Report.*—The staff will brief the Commission on the status of staff activities related to energy conservation devices.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street, NW., Washington, D.C. 20207, telephone: (202) 634-7700.

Agenda approved August 7, 1979.

[S-1625-79 Filed 8-13-79; 3:29 pm]

BILLING CODE 6355-01-M

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Friday, August 10, 1979.

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

STATUS: FCC amends August 6 public notice regarding decision of FCC to hold special open commission meeting:

Agenda, Item Number, and Subject

Assignment and transfer—1—Title: Request for an exception to the Top Fifty Market Policy in connection with an application for the transfer of control of the licensee of WDCA-TV, Washington, D.C., to Taft Broadcasting Company; Petition to deny filed by Washington Association for Television and Children (WATCH).

Summary: Taft presently controls the licenses of one UHF and five VHF television stations in the Nation's top 50 markets. It is requesting an exception to the top 50 market policy to enable it to acquire its seventh television station and its second independent UHF station.

In an open meeting held at the conclusion of the closed meeting of August 2, 1979, the Commission (Commissioners Ferris, Chairman; Quello, Washburn, Fogarty and Jones) voted to schedule this matter on August 10, 1979. Because of certain Commissioners' travel plans, the exact time of the August 10 meeting could not be established at the August 2 meeting. After the 10 a.m. meeting time was established, the Commission on August 6 released a Public Notice (No. 20148) of the intended consideration of this matter at the August 10 meeting. Because the August 6 Public Notice was necessarily issued less than seven days from the date of the August 10 meeting, the Commission clarifies and affirms its decision to afford less than 7 days notice. Various factors relating to the prompt and orderly conduct of Commission business, particularly the fact that the parties agreement to transfer control of WDCA-TV is voidable by either party if the Commission does not consent to the transfer on or before August 17, 1979, and the difficulty of arranging a satisfactory time for attendance of as many Commissioners as possible given the preexisting travel plans, require that less than 7-days notice be given consideration of this matter.

Action by the Commission August 8, 1979. Commissioners Ferris, Chairman; Quello, Fogarty and Brown voting to consider this matter.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this matter may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: August 9, 1979.

[S-1617-79 Filed 8-13-79; 10:59 am]

BILLING CODE 6712-01-M

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Friday, August 10, 1979.

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

STATUS: Special open Commission meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, Item No., and Subject

Television—1—Title: Petition for reconsideration of an August 1, 1979 telegram sent to Western Communications, Inc., licensee of television station KORK-TV, Las Vegas, Nev.

Summary: The FCC considers the above petition requesting that it reconsider imposing an impoundment of profits condition upon Western's authority to continue operating station KORK-TV.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: August 9, 1979.

[S-1616-79 Filed 8-13-79; 10:59 am]

BILLING CODE 6712-01-M

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Friday, August 10, 1979.

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

STATUS: Special open Commission meeting.

CHANGES IN THE MEETING: Delegation and rescheduling:

Agenda, Item Number and Subject

Assignment and transfer—1—Title: Request for an exception to the top 50 market policy in connection with an application for the transfer of control of the licensee of WDCA-TV, Washington, D.C., to Taft Broadcasting Company; Petition to deny filed by Washington Association for Television and Children (WATCH).

Summary: Taft presently controls the licenses of one UHF and five VHF television stations in the nation's top fifty markets. It is requesting an exception to the top 50 market policy to enable it to acquire its seventh television station and its second independent UHF station.

This item has been rescheduled to be considered in a Special Open Meeting, August 16, 1979, starting at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C. and deleted from the list of items scheduled for consideration on August 10, 1979.

Action by the Commission August 9, 1979. Commissioners Ferris, Chairman; Lee, Quello, Fogarty, and Brown voting to reschedule consideration of this matter.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this matter may be obtained from the FCC Public Affairs Office, telephone number (202)632-7260.

Issued: August 10, 1979.

[S-1615-79 Filed 8-13-79; 10:59 am]

BILLING CODE 6712-01-M

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 10:10 a.m. on Friday, August 10, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the initiation of cease-and-desist proceedings and the issuance of temporary cease-and-desist orders against an insured State nonmember bank and certain individual members of its board of directors, in accordance with sections 8(b) and 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b), (c)).

In calling the meeting, the Board determined, on motion of Director John G. Heimann (Comptrolling of the Currency), seconded by Director William M. Isaac (Appointive), and concurred in by Chairman Irvine H. Sprague, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter was eligible for consideration in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii).

Dated: August 10, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1619-79 Filed 8-13-79; 1:11 pm]

BILLING CODE 6714-01-M

10

FEDERAL ELECTION COMMISSION.

"Federal Register" No. 1586.

PREVIOUSLY ANNOUNCED DATE AND TIME: 10 a.m., Thursday, August 16, 1979.

CHANGES IN MEETING: The following matters have been added to the portion open to the public:

1980 elections and related matters: Request for Public Financing 1980 Democratic National Convention Committee, Inc.

Revision of Candidate debates.

Clearinghouse: Proposal for FEC Support of Council on Government Ethics.

The following matter has been added to the portion closed to the public: Litigation.

PERSONS TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, telephone: 202-523-4065.

Lena L. Stafford,

Secretary to the Commission.

[S-1618-79 Filed 8-13-79; 1:11 pm]

BILLING CODE 6715-01-M

11

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: August 9, 1979 (changes).

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

CHANGES IN THE MEETING: Thursday, August 9:

11 a.m.—Affirmation session (approximately 10 minutes), (public meeting). Item a. (City of Gainesville) was postponed.

2 p.m.—Both the personnel matter (closed exemption—6) and the budget markup session were cancelled.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Roger M. Tweed,

Office of the Secretary.

August 10, 1979.

[S-1620-79 Filed 8-13-79; 2:09 pm]

BILLING CODE 7590-01-M

federal register

Wednesday
August 15, 1979

Part II

Department of the Interior

Fish and Wildlife Service

Department of Commerce

National Oceanic and Atmospheric Administration

Proposed Rule for Revising the Lists of Endangered and Threatened Wildlife and Plants and Designating Species' Critical Habitat

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 17, 402, and 405]

Endangered and Threatened Wildlife and Plants; Revising the Lists of Endangered and Threatened Wildlife and Plants and Designating Species' Critical Habitat

AGENCIES: Fish and Wildlife Service, Interior; and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: The Services are proposing new rules for revising and maintaining the lists of Endangered and Threatened Wildlife and Plants and for determining listed species' Critical Habitats. Procedures for receiving and considering petitions to revise the lists and for conducting periodic reviews of species contained on the lists are proposed. These rules will implement the requirements of section 4 of the Endangered Species Act of 1973, as amended.

DATES: Comments from the public must be received on or before October 15, 1979.

ADDRESSES: Submit comments to the Director, Fish and Wildlife Service (FWS/OES), U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours (7:45 a.m. to 4:15 p.m.) at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973 establishes a comprehensive program to conserve endangered and threatened species of wildlife and plants. The Act requires the Departments of the Interior and Commerce to insure the conservation of these species through the promulgation of rules.

Section 4 of the Act sets forth procedures for listing species, designating their critical habitats, and maintaining the Lists of Endangered and Threatened Wildlife and Plants. Before these activities may be undertaken, the Service must assess the biological status of the species, consult with interested parties, publish proposed rules, receive comments, consider the comments and evidence, and carefully weigh all relevant factors. The Services also believe that increased flexibility is necessary for the management of reintroduced populations of listed species. The Services are presently considering a regulatory mechanism to facilitate this flexibility.

The requirements of section 4 reflect the competing interests that come into play during the promulgation of regulations to conserve endangered or threatened species. On the one hand, species threatened with extinction require immediate protection to increase their chance of survival; on the other hand, knowledgeable parties should be consulted before Federal actions of potentially broad impact are taken. The Fish and Wildlife Service and the National Marine Fisheries Service are committed to providing full protection as quickly as possible for endangered and threatened species consistent with the requirements of the Act.

Present rules implementing section 4 of the Act appear in §§ 17.11, 17.12, 17.13 and 402.05 of 50 CFR and are limited primarily to maintenance of the Lists of Endangered and Threatened Wildlife and Plants, petitions to list, delist, or reclassify species, and factors relating to the designation of Critical Habitat. Both Services now believe that comprehensive regulations implementing the requirements of section 4 should be promulgated. The purpose of these regulations is to establish uniform procedures that fully comply with the requirements of section 4 of the Act to aid the Services in promulgating rules to conserve endangered and threatened species.

Major features of the proposed rule are summarized below:

(a) Section 405.01 sets out the scope of the proposed rule. The rule describes the procedures the Services will follow in listing species, designating Critical Habitat, and reviewing petitions and the status of species already listed.

(b) Section 405.02 defines important terms used in the rule.

(c) Section 405.10 provides that the Director must follow the rule's procedures when listing or delisting a species, designating Critical Habitat, and promulgating special rules to conserve listed species. Section 4(f) of the Act requires the Director to satisfy numerous requirements when promulgating rules to carry out the purposes of the Act.

(d) Section 405.11 sets out which fish, wildlife and plants may be protected under the Act and those factors the Director will consider in determining whether a species is Endangered or Threatened. The section provides that the fact that a species is protected by The Convention on International Trade in Endangered Species of Wild Fauna and Flora or similar international agreement consitutes evidence that the species should be listed under the Act. The weight of this evidence will vary depending on the international agreement and the criteria pursuant to which the species is listed under the agreement.

(e) Section 405.12 describes factors that the Director will consider prior to designating Critical Habitat. Section 4(c) of the Act requires that the Director, to the maximum extent prudent, specify Critical Habitat at the time a species is proposed. Paragraph (a) establishes criteria for determining whether it would be prudent to designate Critical Habitat and provides that such designation is imprudent when deterimental or not beneficial to the species. The section also sets guidelines for the Director to use in determining whether a particular area should be excluded from Critical Habitat. To implement the apparent congressional intent of section 3(5) of the Act, paragraph (f) describes conditions under which habitat outside the species' present range may be designated Critical Habitat.

(f) Section 405.13 sets out those interested persons, organizations and public agencies that will be consulted, when appropriate, in promulgating rules pursuant to this Part.

(g) Section 405.14 describes the manner in which persons or organizations may submit petitions requesting the Service to list, delist or reclassify a species and provides guidance as to what material the petition should contain. The section also provides criteria for determining whether the petition presents substantial evidence as required by section 4(c) of the Act and indicates how the Service will proceed after a petition has been submitted.

(h) Section 405.15 sets out the procedures the Director will follow in promulgating proposed rules when he determines that one of the actions described in section 405.10 may be warranted. These procedures include consultation with foreign or State

governments, the manner in which public meetings and hearings will be conducted, and other procedures for soliciting public comments. The section also outlines the procedure the Director will use in considering the economic and other impacts of designating critical habitat.

(i) Section 405.16 summarizes the content of final rules adopted pursuant to these regulations. The section also provides that a proposed rule be withdrawn unless made final within two years from the date of proposal unless voluntarily withdrawn because available information and data do not support the proposal.

(j) Section 405.17 establishes procedures for the promulgating of emergency rules for the conservation of species of fish and wildlife.

(k) Section 405.18 sets out the manner in which the Director will periodically review the List of Endangered and Threatened wildlife and plants.

(l) New section 17.94 explains the effect of designating an area as Critcal Habitat and indicates how Critical Habitats are described. Further, sections 17.11, 17.12 and 17.95 have been amended to comply with the Endangered Species Act Amendments of 1978.

(m) Section 402.05 of 50 CFR is withdrawn and reserved for future rules, since the provisions dealing with the designation of critical habitat are now included in these proposed rules.

Public Comments Solicited

The Fish and Wildlife Service and the National Marine Fisheries Service solicit comments or suggestions on this proposal from interested persons or organizations and Federal, state and local governments. Comments should be as specific as possible, refer to the subsection being discussed, and include the rationale for the suggestion.

The primary authors of this proposal are Ronald M. Nowak, John L. Paradiso, and Jay M. Sheppard, Office of Endangered Species, U.S. Fish and Wildlife Service (703/235–1975).

Amendment of the Regulations

Accordingly, the Fish and Wildlife Service and the National Marine Fisheries Service propose to amend Title 50 by adding a new Part 405 and § 17.94; amending §§ 17.11, 17.12, and 17.95 and withdrawing §§ 402.05 and 17.13 as set forth below:

1. Adding a heading for new Part 405: "Listing of Endangered and Threatened Species and Designating of Critical Habitat."

2. Add a table of sections for new Part 405 to read as follows:

PART 405—LISTING OF ENDANGERED AND THREATENED SPECIES AND DESIGNATING OF CRITICAL HABITAT

Subpart A—General Provisions

Sec.

405.01 Scope and purpose.
405.02 Definitions.

Subpart B—Revision of the List

405.10 General.
405.11 Factors considered for listing species.
405.12 Criteria for designating Critical Habitat.
405.13 Sources of information and relevant data.
405.14 Petitions.
405.15 Proposed rules.
405.16 Final rules.
405.17 Emergency rules.
405.18 Periodic review.

Authority: Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 *et seq.*).

3. Add Sections 405.01–405.18 to new part 405 to read as follows:

Subpart A—General Provisions

§ 405.01 Scope and purpose.

(a) This Part 405 provides rules for revising the Lists of Endangered and Threatened Wildlife and Plants and designating their Critical Habitats. Criteria for determining species to be Endangered or Threatened and for designating Critical Habitats are provided. Procedures for receiving and considering petitions to revise the lists and for conducting periodic reviews of species contained in the lists are also set forth.

(b) The purpose of this rule is to implement section 4 of the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*

§ 405.02 Definitions.

(a) The definitions of terms in 50 CFR § 402.02 shall apply to this part 405, except as otherwise stated.

"Critical Habitat" means (1) the specific areas within the geopgraphical area occupied by a species, at the time it is listed in accordance with section 4 of the Act, on which are found those physical or biological features (i) essential to the conservation of the species and (ii) which may require special management considerations or protection, and (2) specific areas outside the geographical area occupied by a species at the time it is listed in accordance with the provisions of section 4 of the Act upon a determination by the Secretary that such areas are essential for the conservation of the species.

"Director" means the Director of the U.S. Fish and Wildlife Service, Department of the Interior, or the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, as appropriate.

"Endangered species" means a species which is in danger of extinction throughout all or a significant portion of its range.

"List" or "lists" means the lists of endangered or threatened wildlife and plants found at 50 CFR § 17.11 or § 17.12.

"Special management considerations or protection" means any methods or procedures useful to the conservation of listed species.

"Species" means any subspecies of fish and wildlife or plants, and any distinct population segment of any species or subspecies of vertebrate fish or wildlife which interbreeds when mature.

"Threatened species" means any species which is likely to become an Endangered species within the foreseeable future throughout all or a significant portion of its range.

Subpart B—Revision of the Lists

§ 405.10 General.

The Director may add a species to the lists or designate Critical Habitat, delete a species or Critical Habitat, change the classification of a species, change an area designated as Critical Habitat, or adopt or modify special rules for an Endangered or Threatened species only in accordance with the procedures of this Part.

§ 405.11 Factors considered for listing species.

(a) Any species as defined in § 405.02 is eligible for listing under the Act. In determining whether a particular taxon or population is a species for the purposes of the Act, the Director shall rely on standard taxonomic distinctions and the biological expertise of the Service.

(b) A species shall be listed if the Director determines on the basis of the best scientific and commercial data available that the species is endangered or threatened because of any one or a combination of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Utilization for commercial, sporting, scientific, or educational purposes; at levels that detrimentally affect the species;

(3) Disease or predation;

(4) Absence of regulatory mechanism adequate to prevent the decline of a species or degradation of its habitat; and

(5) Other natural or manmade factors affecting its continued existence.

(c) The fact that a species of fish, wildlife or plant is protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora or similar international agreement shall constitute evidence that the species in Endangered or Threatened. The Director shall give full consideration to any species protected by such an international agreement to determine whether the species is Endangered or Threatened.

§ 405.12 Criteria for designating Critical Habitat.

(a) Critical Habitat shall be specified to the maximum extent prudent at the time a species is proposed for addition to the list or change of status from Threatened to Endangered. Designation of Critical Habitat is not prudent:

(1) When the species is in need of immediate listing, and the delay resulting from preparing a proposal for Critical Habitat would have a detrimental effect upon the conservation of the species, or

(2) When the species is threatened by taking or other human activity and identification of Critical Habitat can be expected to increase the degree of such threat to the species, or

(3) When such designation of Critical Habitat would not be beneficial to the species.

(b) The Director shall consider the physiological, behavioral, ecological, and evolutionary requirements essential for the conservation of listed species as well as special management considerations or protection in determining what areas are Critical Habitats. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distributions of listed species.

When considering the designation of Critical Habitat, the Director shall focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Primary known constituent elements shall be listed with the critical habitat description. Examples of such constituent elements which may be identified include, but are not limited to, the following: roost site, nesting ground, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host animal or plant, pollinator, tide, geological formation, and specific soil types.

(c) The Director shall consider the economic impact, and any other relevant impacts, of specifying any particular area as Critical Habitat, and may exclude any such area from the Critical Habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying the area as part of the Critical Habitat. The Director shall not exclude any such area if he determines, based on the best scientific and commercial data available, that the failure to designate that area as Critical Habitat will result in the extinction of the species.

(d) Each Critical Habitat will be defined by specific prescribed limits. Each area will be described by references to the State, county(ies), or other local governmental units within which all or part of the Critical Habitat is located. Unless otherwise indicated within Critical Habitat descriptions, the names of the State, county, or other local governmental units are provided for information purposes only and do not constitute the boundaries of the area. The Director shall attempt to use easily located landmarks found on standard topographic maps of the area. Whenever possible the use of ephemeral reference points will be avoided (e.g., trees, sand bars).

(e) When several suitable habitats are located in close proximity to one another, an inclusive area may be designated as Critical Habitat.

(f) The Director shall designate as Critical Habitat areas outside the geographical area occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.

§ 405.13 Sources of information and relevant data.

When considering any revision of the lists, the Director shall consult, as appropriate, with affected States, interested persons and organizations, other interested Federal agencies, and, in cooperation with the Secretary of State, with the country or countries in which the species concerned are normally found or whose citizens harvest such species on the high seas. Data reviewed by the Director may include, but are not limited to, publications or written reports, maps or graphic materials, information received from persons expert on the subject, and comments from interested parties.

405.14 Petitions.

(a) Any interested person may submit a petition to the Director to review the status of any species with a view to taking one of the actions described in § 405.10. Such petitions must be in writing, contain the date submitted, and the name, signature, address, telephone number, and the association, institution, or business, if any, represented by the petitioner. The Director will acknowledge in writing receipt of the petition within 30 days.

(b) The Director shall determine whether substantial evidence has been presented in support of the measure recommended by a petitioner. "Substantial evidence" is that quantum of evidence that would lead a reasonable person to conclude that the measure proposed in the petition is warranted. In making this determination the Director shall consider whether the petition:

(1) Clearly indicates the administrative measure recommended, the scientific and any common name of the species involved, and the precise area recommended as Critical Habitat;

(2) Contains detailed narrative justification for the recommended measure, describing, based on available information, the past and present numbers and distribution of the involved species, the particular threatening factors confronting the species, and the features and importance of any recommended Critical Habitat;

(3) Indicates any beneficial or adverse effect on the species of designating Critical Habitat;

(4) Provides information on the status of the species over a significant portion of its range; and

(5) Is accompanied by appropriate supporting documentation, such as a list of bibliographic references, reprints or pertinent publications, copies of written reports or letters from authorities, and maps, if appropriate.

(c) If the Director finds that substantial evidence has not been presented, the petition shall be denied and the petitioner shall be so notified. If the petitioner proposes to list, delist, or change the status of a species and the Director finds that substantial evidence has been presented in such petition, the Director shall: (1) promptly publish a notice in the **Federal Register** announcing such determination, (2)

conduct and publish in the **Federal Register** a status review of the species that is the subject of the petition, within 90 days of receipt of the petition and (3) indicate at the time the status review is published how the Service intends to proceed with respect to the listing, delisting or reclassifying, of the species. If the petition relates only to Critical Habitat or a special rule for the conservation of a species, the Director will promptly conduct a review and take appropriate action.

§ 405.15 Proposed rules.

(a) If the Director finds that one of the actions described in § 405.10 may be warranted, but that the evidence is insufficiently definitive to justify proposing the action, he may publish a notice of review in the **Federal Register.** The notice of review will include a description of the measure under consideration, a brief explanation of why the action may be warranted, and will solicit comments and additional information on the action under consideration. At the time of publication of the notice, notification in writing will be sent to the Governors of any affected States and the governments of any foreign countries where the subject species normally occurs. If a Critical Habitat area is involved in the review, notification will also be sent in writing to any Federal agencies and local governments with jurisdiction over lands or waters under consideration and to all general local governments within or adjacent to the proposed critical habitat.

(b) Based on the threshold review conducted pursuant to § 405.14(c) or § 405.15(a), or on other information that the Service has obtained, the Director may propose revising the lists as described in § 405.10.

(c) *Procedures.* (1) *Content of proposed rule.* A proposed rule promulgated to carry out the purposes of the Act will be published in the **Federal Register** and will include the complete text of the proposed rule, a summary of factors affecting the species, a summary of the data on which the proposal is based, the relationship of such data to the proposed rule, and a description of the anticipated effects of the rulemaking if finalized in the proposed form. A proposed rule involving Critical Habitat will also contain a map of the proposed Critical Habitat, and will, to the maximum extent practicable, be accompanied by a brief description of those activities (whether public or private) that might occur in the area and that, in the opinion of the Director, may, if undertaken, adversely modify such habitat or may be affected by designating the area Critical Habitat.

(2) *Period for public comments.* At least 30 days will be allowed for public comments following publication of a proposed rule in the **Federal Register.**

(3) Notification of and comment by Governors of affected States and governments of foreign countries.

The Director shall give notice of any proposed rule in writing to the governments of any foreign countries in which the subject species normally occurs or whose citizens harvest such species on the high seas. With respect to resident species of wildlife and plants, the Director shall give notice of any proposed rule in writing to the Governors of the States in which the subject species normally occurs. A Governor so contacted will be allowed 90 days after notification to submit comments and recommendations on the proposed rule except to the extent that such period is shortened by agreement between the Director and Governor concerned.

(4) *Offer for publication.* The Director shall offer the substance of the **Federal Register** notice proposing a rule for publication in appropriate scientific journals or newsletters.

(5) *Public meetings on proposals not involving Critical Habitat.* If the rule proposes to list or change the status of a species and does not specify Critical Habitat, the Director shall promptly hold a public meeting on the proposed rule within or adjacent to the area in which the species is located, if a request for such a meeting is made by any person within 45 days after the date of publication of the proposal in the **Federal Register.** The specific locations and times of such meetings will be determined by the Director and published in the **Federal Register.**

(6) *Additional requirements for proposed rules involving Critical Habitat.* (i) *Public meetings or hearings.*

If a proposed rule includes Critical Habitat, the Director shall hold a public meeting on the proposal within the area in which such Critical Habitat is located in each State. The specific locations and times of such meetings shall be determined by the Director and published in the **Federal Register.** Such public meetings will be held promptly, but not sooner than 30 days after notice of the meetings is given unless good cause is shown. A public hearing shall be held in each State in which such habitat is located if requested in writing more than 15 days before a scheduled public meeting.

(ii) If the proposed rule involves Critical Habitat, the Director shall: (A) notify in writing any Federal agencies with jurisdiction over lands included in the area under consideration; (B) publish general notice of the proposed rule (including its complete text) in a newspaper of general circulation within or adjacent to such habitat within 30 days of the date of the proposal and not less than 60 days before the effective date of the regulation; and (C) give actual notice of the proposed rule (including its complete text) and any draft National Environmental Policy Act documents prepared on the proposed rule within 30 days of the date of the proposal, and not less than 60 days before the effective date of the rule, to all general local governments located within or adjacent to the proposed Critical Habitat. However, any accidental failure to provide actual notice pursuant to (C) above to all such local governments will not invalidate any Critical Habitat determination.

(iii) *Consideration of economic and other impacts.* (A) Upon determining that the proposal of a particular area as Critical Habitat is appropriate for biological reasons, the Director shall gather economic and other information on impacts associated with the Critical Habitat designation from affected Federal agencies.

(B) The Service may publish a notice of intent or review in the **Federal Register** prior to proposal of a rule in order to receive additional economic or other relevant information from the public concerning the area that may be affected by the Critical Habitat designation.

(C) The Service shall prepare a draft impact analysis which will consider the beneficial or detrimental economic and other impacts of the Critical Habitat designation. This draft impact analysis shall be available to the public.

(D) Prior to the time of final rulemaking, the Service shall prepare a final impact analysis based upon information contained in the draft impact analysis and that received during the comment period, including information provided at public meetings and hearings. The final impact analysis will analyze and discuss both the beneficial and detrimental economic and other relevant impacts of possible Critical Habitat configurations. This analysis will form the basis for the Director's decision as to whether or not to exclude any area from the Critical Habitat. Upon determining that the benefits of excluding an area from the Critical Habitat outweigh the benefits of specifying the area as part of the Critical

Habitat he may exclude such an area from the Critical Habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate that area as Critical Habitat will result in the extinction of the species.

(E) Such impact analyses may be combined with a determination of significance or a regulatory analysis prepared pursuant to Executive Order 12044.

§ 405.16 Final rules.

(a) After consideration of public comments and all relevant data, the Director shall either publish a final rule or publish a notice of withdrawal of the proposal in the **Federal Register.**

(b) *Contents of the final rule.* A final rule promulgated to carry out the purposes of the Act shall include the complete text of the rule, a summary of the comments and recommendations received on the proposal, a summary of the data on which the rule is based and the relationship of such data to the final rule, a summary of the factors affecting the subject species, and a description of the anticipated effects of the rulemaking. A rule involving a Critical Habitat area will also contain a map of any designated Critical Habitat and will, to the maximum extent practicable, be accompanied by a brief description of those kinds of activities (whether public or private) that might occur in the area and which, in the opinion of the Director, may, if undertaken, adversely modify such habitat, or may be impacted by designation of the area as Critical Habitat.

(c) A final regulation adding a species to the lists shall be published in the **Federal Register** not later than two years after the date such rule was proposed. If a final rule is not adopted within this two-year period, the Director shall withdraw the proposed rule and will publish notice of such withdrawal in the **Federal Register** not later than 30 days after the end of such period. The Director shall not propose a regulation adding to the list any species for which a proposed regulation has been withdrawn under this section unless he determines that sufficient new information is available to warrent the proposal of a rule. Notwithstanding the above provision, the Director may withdraw a proposal voluntarily upon a determination that available information and data do not support the proposal.

(d) *Effective date of the final rules.* Final rules shall become effective not less than 30 days after their publication in the **Federal Register** except as otherwise provided for good cause found and published with the rule. A final rule shall not become effective before 60 days after the last public meeting or hearing conducted on the proposal.

§ 405.17 Emergency rules.

Sections 405.15 and 405.16 notwithstanding, the Director may by regulation take any action described in § 405.10 if such a measure is warranted by the development of a significant risk to the well-being of a species of fish or wildlife. Such rules shall at the discretion of the Director be effecting immediately on publication in the **Federal Register.** No such action that applies to resident species will be taken until the Director has complied with the requirements of section 4(b)(1)(A) of the Act. At the time of publication in the **Federal Register** of the emergency rule, the Director shall give detailed reasons why the rule is necessary. An emergency rule shall cease to have force and effect after 120 days unless the procedures described in §§ 405.15 and 405.16 have been complied with during that period.

§ 405.18 Periodic review.

At least once every five years the Director shall conduct a review of all listed species to determine whether any species should be removed from the list, be changed from an Endangered to a Threatened status, or be changed from a Threatened to an Endangered status. In the conduct of such reviews, the Director shall comply with section 405.13.

4. Add a new § 17.94 to 50 CFR as follows:

§ 17.94 Critical Habitats.

(a) The areas listed in § 17.95 (fish and wildlife) and § 17.96 (plants) and referred to in the lists of §§ 17.11 and 17.12 have been determined by the Director to be Critical Habitat. All Federal agencies must insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the constituent elements essential to the survival of the listed species within these defined Critical Habitats. (See Part 402 for rules concerning this prohibition)

(b) The map provided by the Director does not, unless otherwise indicated, constitute the definition of the boundaries of a Critical Habitat. Such maps are provided for reference purposes to assist Federal agencies in locating the general area of the Critical Habitat. Critical Habitats are described by reference to the State and county(ies) within which all or part of the Critical Habitat is located. Unless otherwise indicated within the Critical Habitat description, the State and county names are provided for information purposes only.

(c) Critical Habitat preservation focuses only on the biological or physical constituent elements within the defined area of Critical Habitat that are essential to the conservation of the species. Such major constituent elements that are known will be listed with the description of the critical habitat.

(d) The sequence of species within each list of Critical Habitats in §§ 17.95 and 17.96 will follow the sequences in the lists of endangered and threatened wildlife (§ 17.11) and plants (§ 17.12). Multiple entries for each species will be alphabetic by State.

§ 17.95 [Amended]

5. Amend § 17.95 by deleting the introductory paragraph before subsection (a) and rearranging all entries in the sequence followed in the list of endangered and threatened wildlife (§ 17.11) and plants (§ 17.12).

6. Amend §§ 17.11 and 17.12 to read as follows (exclusive of the lists of wildlife and plants):

§ 17.11 Endangered and Threatened Wildlife.

(a) The list in this section contains all the species of wildlife which are determined by the Director to be Endangered or Threatened. It also contains species of wildlife treated as Endangered or Threatened either because they are similar in appearance to Endangered or Threatened species which require protection of the former in order to avoid unwanted impacts on the latter (see Subpart E), or because they constitute captive, self-sustaining populations of otherwise Endangered species (see § 17.17).

(b) The columns entitled "Common Name", "Scientific Name", and "Population where Endangered or Threatened" define the species of wildlife within the meaning of the Act. Thus, differently classified geographic populations of the same vertebrate subspecies or species shall be identified by their differing geographic boundaries, even though the other two columns are identical. For captive, self-sustaining populations, the "Population where Endangered or Threatened" would simply state "In captivity in U.S." the term "Entire" would mean that all populations throughout the present range of the species are listed. Although common names are included, they

cannot be relied upon for identification of any specimen, since they may vary greatly in local usage. The Director shall use the most recently accepted scientific name. In cases in which confusion might arise, a synonym will be provided in parentheses.

(c) In the "Status" column the following symbols are used: "E" for Endangered, "T" for Threatened, "T(C/P)" for captive, self-sustaining population, and "E [or T] (S/A)" for similarity of appearance species.

(d) For information purposes only, the "Historic Range" lists the general known distribution of the species or subspecies as reported in the scientific literature. This column does not imply any limitation on the application of the prohibitions in the Act and in this Part 17. Such prohibitions apply to all individuals of the species, wherever found. The list will be updated promptly if new distributional records are discovered.

(e) For information purposes only, a footnote to the **Federal Register** publication originally listing a species is provided under the column "When Listed." Footnote numbers to §§ 17.11 and 17.12 are in the same numerical sequence, since plants and animals may be listed in the same **Federal Register** document. That document includes a statement indicating the basis for the listing status.

(f) The "Special Rules" and "Critical Habitat" columns provide a cross-reference to other sections in this Part 17 or Parts 222 or 227. The letters "N/A" (not applicable) appearing in either of these two columns indicate that there are no special rules and/or critical habitat for that particular species. However, all other appropriate rules in this Part 17 and Parts 217–227 and 402 still apply to that species. In addition, there may be other rules in this Subchapter B that relate to such wildlife, i.e., port-of-entry requirements. It is not intended that the references in the "Special Rules" column lists all the regulations of the two Services which might apply to the species, or the regulations of other Federal agencies or State or local governments.

(g) The listing of a particular taxonomic group includes all lower taxonomic groups. For example, if the genus *Felis* is listed for Africa and Asia, then all species, subspecies and populations of that genus from those two continents are considered to be listed. If the species *Felis concolor* is listed and the "Population where Endangered or Threatened" is defined as "Canada, U.S.A. (except Alaska), and Mexico", then all subspecies and populations in Canada, the conterminus 48 States, and Mexico are considered listed for the purposes of this Part 17.

(h) The "List of Endangered and Threatened Wildlife" is provided below.

[Note: The format proposed in this rule for wildlife is as follows:]

List of Endangered and Threatened Wildlife (§ 17.11)

Species		Historic range	Population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						

§ 17.12 Endangered and Threatened plants.

(a) The list in this section contains all species of plants which are determined by the Director to be Endangered or Threatened. It also contains species of plants treated as Endangered or Threatened because they are similar in appearance to an Endangered or Threatened species (see subpart E).

(b) The columns entitled "Scientific Name" and "Common Name" define the species of plant within the meaning of the Act. Although common names are usually included, they cannot be relied upon for identification of any specimen, since they may vary greatly with local usage. The Director will use the most recently accepted scientific name. In cases in which confusion might arise, a synonym will be provided in parenteses.

(c) In the "Status" column the following symbols are used: "E" for Endangered, "T" for Threatened, and "E [or T] (S/A)" for similarity of appearance species.

(d) For information purposes only, the "Historic Range" lists the general known distribution of the species as reported in the scientific literature. This column does not imply any limitation on the application of the prohibitions in the Act and in Part 17. Such prohibitions apply to all individuals of the species, wherever found. The list will be updated promptly if new ranges are discovered.

(e) For information purposes only, a footnote to the **Federal Register** publication which originally listed the species is provided under the Column "When Listed." Footnote numbers to § 17.12 and § 17.11 are in the same numerical sequence since plants and animals may be listed in the same **Federal Register** document. That document includes a statement indicating the basis for listing.

(f) The "Special Rules" and "Critical Habitat" columns provide a cross-reference to other sections in this Part 17 or Parts 222 or 227. The letters "N/A" (not applicable) appearing in either of these two columns indicate that there are no special rules and/or critical habitat for that particular species. However, all other appropriate rules in this Part 17 and Parts 217–227 still apply to that species. In addition, there may be other rules in this Subchapter B that relate to such plants, for example, port-of-entry requirements. It is not intended that the references in the "Special Rules" column list all the regulations of the two Services which might apply to the plants in question, or the regulations of other Federal agencies or State of local governments.

(g) The listing of a particular taxonomic group includes all its lower taxonomic units.

(h) The "List of Endangered and Threatened Plants" is provided below.

[Note: The format proposed in this rule for plants is an follows:]

List of Endangered and Threatened Plants (§ 17.12)

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					

§ 17.13 and 402.05 [Reserved].

7. Delete the text and references in the tables of sections for §§ 17.13 and 402.05 from 50 CFR and reserve those sections for future rules.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: July 23, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

Jack W. Gehringer,

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

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Wednesday
August 15, 1979

Part III

Department of State

Fishery Conservation and Management Act of 1976; Korean Applications for Permits To Fish off the Coasts of the United States

DEPARTMENT OF STATE

[Public Notice 682]

Fishery Conservation and Management Act of 1976; Korean Application for Permits To Fish off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register.**

Individual vessel applications for fishing 1979 have been received from Korea and are summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202)634–7265).

Dated: August 1, 1979.

James A. Storer,

Director, Office of Fisheries Affairs.

BILLING CODE 4710-09-M

FISHERY CODES AND DESIGNATION OF REGIONAL COUNCILS WHICH REVIEW APPLICATIONS FOR INDIVIDUAL FISHERIES ARE AS FOLLOWS:

CODE	FISHERY	REGIONAL COUNCIL
ABS	Atlantic Billfishes and Sharks	New England Mid-Atlantic South Atlantic Gulf of Mexico Caribbean
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet	North Pacific
CRB	Crab (Bering Sea)	North Pacific
GOA	Gulf of Alaska	North Pacific
NWA	Northwest Atlantic	New England Mid-Atlantic
SMT	Seamount Groundfish (Pacific Ocean)	Western Pacific
SNA	Snails (Bering Sea)	North Pacific
WOC	Washington, Oregon, California Trawl	Pacific

ACTIVITY CODES SPECIFY CATEGORIES OF FISHING OPERATIONS APPLIED FOR AS FOLLOWS:

ACTIVITY CODE	FISHING OPERATIONS
1	Catching, processing, and other support.
2	Processing and other support only.
3	Other support only.

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
KOREA			
CRYSTAL DAHLIA LARGE STERN TRAWLER	KS-79-0034	BSA, GOA	1
HAN JIN HO LARGE STERN TRAWLER	KS-79-0045	BSA, GOA	1
OYANG HO NO. 70 LARGE STERN TRAWLER	KS-79-0048	BSA, GOA	1

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Wednesday,
August 15, 1979

Part IV

Office of Management and Budget

Standards Governing State and Local Grantee Procurement; Attachment O of OMB Circular A-102

OFFICE OF MANAGEMENT AND BUDGET

[Circular No. A-102, Revised; Transmittal Memorandum No. 1]

Standards Governing State and Local Grantee Procurement, Attachment O of OMB Circular A-102

August 1, 1979.

To heads of Executive Departments and Establishments

1. *Purpose:* This Memorandum transmits an amendment (revised Attachment O) to Office of Management and Budget (OMB) Circular A-102.

2. *Background:* This notice, pursuant to the authority of Pub. L. 93-400, the Office of Federal Procurement Policy Act and the Intergovernmental Cooperation Act, amends Attachment O to OMB Circular A-102 issued September 12, 1977, **Federal Register**, Vol. 42, No. 176, page 45828. The proposed revision was circulated to State and local interest groups in accordance with Circular A-85 procedures and Executive Order 12044 and to affected Federal agencies and contractor organizations. The proposed revision was published in the **Federal Register** December 6, 1978, Vol. 43, No. 235, page 57201, and a public hearing was held January 16, 1979. No regulatory analysis is required in accordance with Executive Order 12044. The amendment (1) reaffirms the maximum reliance on State and local government grantees management of their own procurement; (2) directs grantor agencies to rescind nonconforming provisions of current agency subordinate regulations and limits the issuance of additional requirements; (3) creates a grantee certification program to reduce the grantee agencies' burdensome pre-award review of individual procurements; (4) adds provisions to reduce the possibility of fraud and waste; and (5) expands coverage addressing small, minority, women and labor surplus contracting. The amendment, it is anticipated, will reduce administrative cost, paperwork and other such factors which contributed to inefficiency, waste and delay in implementing assistance programs.

3. *Action:* Remove the old Attachment O from the Circular and insert the new Attachment. Grantor agencies shall begin immediately to amend nonconforming subordinate regulations.

4. *Summary of Changes:* Section 1. Prohibits grantor agencies from adding additional requirements or subordinate regulations. This attachment strikes a balance between agencies' stewardship role and the policy of placing the maximum reliance on grantees to conduct their own affairs. To avoid confusion, areas not covered by this prohibition are enumerated.

Section 2. Spells out the responsibilities that properly belong to the grantor or the grantee. To avoid burdensome detailed reviews of grantees' discretionary actions the substitution of grantors' judgment is prohibited, unless it is primarily a Federal question.

Section 3. Grantor agencies are encouraged to provide technical assistance to grantees rather than require submission for review.

Section 4. Proposes that grantor agencies conduct grantee procurement system reviews and that when a grantee procurement system meets the standards of this attachment it may be certified by the grantor agencies, thus reducing individual pre-award contract reviews by that agency or other agencies making grants. Both grantees and grantors expressed their concern about keeping the quality of the certification reviews constant. A paragraph was added to make reviews adhere to OFPP standards.

Section 5. Limits grantor agencies' authority to review protests. This is properly the responsibility of the grantee.

Section 6. Limits grantor pre-award review of grantee procurements to non-competitive and brand name procurements, and procurements by grantees who do not meet Attachment O standards.

Section 7. Expands the code of conduct from merely prohibiting the acceptance of gifts and gratuities to prohibiting the participation in the award of contracts to firms in which the employee has some financial interest.

Section 9. Expands the section requiring affirmative steps to ensure minority and small business participation in contracting under Federal grant programs, and encourages the placement of contracts in labor surplus areas and with women business enterprises.

Section 11. Explains when it is appropriate to use one of the following four methodsa of procurement, small purchase, competitive sealed bids, competitive negotiations, and noncompetitive negotiations, and recognizes price competition need not be used for A/E contracts.

Section 12. Prohibits the use of a percentage of construction cost method of contracting, requires either a cost or price analysis of all procurement, and states costs will be allowed if consistent with Federal cost principles.

Section 14G. Expands contract provision on inventions to cover copyrights and rights in data.

Section 14J. Adds provision requiring compliance with State Energy Conservation Plans.

5. *Effective Date:* This revision is effective October 1, 1979. Grantees may comply with this amendment immediately where they do not conflict with grantor agency regulations. Grantor agencies may implement this amendment immediately or allow grantee agencies to implement.

6. *For Further Information Contact:* Mr. Jack Nadol, Assistant for Intergovernmental Affairs, Office of Federal Procurement Policy, Telephone 202-395-6166.

James T. McIntyre, Jr.,
Director.

Procurement Standards

1. *Applicability.*

a. This Attachment establishes standards and guidelines for the procurement of supplies, equipment, construction, and services for Federal assistance programs. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and Executive orders.

b. No additional procurement requirements or subordinate regulations shall be imposed upon grantees by Executive agencies unless specifically required by Federal law or Executive orders or authorized by the Administrator for Federal Procurement Policy. This prohibition is not applicable to payment conditions issued in accordance with Treasury Circular 1075, individual grantee requirements pursuant to section 10 of the basic circular or the provisions of this or other OMB circulars.

c. Provisions of current subordinate requirements not conforming to this attachment shall be rescinded by grantor agencies unless approved by the Office of Federal Procurement Policy (OFPP).

2. *Grantee/Grantor Responsibility*

a. These standards do not relieve the grantee of any contractual responsibilities under its contracts. the grantee is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of a grant. These include but are not

limited to: source evaluation, protests, disputes, and claims. Executive agencies shall not substitute their judgment for that of the grantee unless the matter is primarily a Federal concern. Violations of law are to be referred to the local, State, or Federal authority having proper jurisdiction.

b. Grantees shall use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements for Federal Assistance Programs conform to the standards set forth in this attachment and applicable Federal law.

3. *Grantee Procurement Improvement.*

Executive agencies awarding Federal grants or other assistance which require or allow for procurement by the recipients are encouraged to assist recipients in improving their procurement capabilities by providing them with technical assistance, training, publications, and other aid.

4. *Procurement System Reviews.*

a. Executive agencies are encouraged to perform reviews of their grantees' procurement systems if a continuing relationship with the grantee is anticipated or a substantial amount of the Federal assistance is to be used for procurement and review of individual contracts is anticipated. The purpose of the review shall be to determine: (1) whether a grantee's procurement system meets the standards prescribed by this Attachment or other criteria acceptable to the OFPP, such as provisions of the model procurement code for State and local government and (2) whether the grantee's procurement system should be certified by the reviewing agency. Such a review will also give an agency an opportunity to give technical assistance to a grantee to remedy its procurement system if it does not fully comply. In addition, such a review may provide a basis for deciding whether the grantee's contracts and related procurement documents should be subject to the grantor's prior approval, as provided by Section 6.

b. In conducting procurement system reviews, grantor agencies will evaluate a grantee's procurement system in terms of whether it complies with the standards prescribed by this Attachment and represents a fair, efficient and effective procurement system. To the maximum extent feasible, reviewers will rely upon State or local evaluations and analyses performed by agencies or organizations independent of the grantee contracting activity.

c. When a Federal grantor agency completes a procurement review, it shall furnish a report to the grantee, with a copy to OFPP.

d. All agencies should normally rely upon the resultant findings or certification for a period of 24 months before another review is performed.

e. Reviews shall be conducted in accordance with standards and guidelines approved or issued by OFPP.

f. The reviews authorized by Section 6 are waived if a grantee's procurement system is certified.

5. *Protest Procedures.*

Grantor agencies may develop an administrative procedure to handle complaints or protests regarding grantee contractor selection actions. The procedure shall be limited as follows:

a. No protest shall be accepted by the grantor agency until all administrative remedies at the grantee level have been exhausted.

b. Review is limited to:

(i) Violations of Federal law or regulations. Violations of State or local law shall be under the jurisdiction of State or local authorities.

(ii) Violations of grantee's protest procedures or failure to review a complaint or protest.

6. *Grantor Review of Proposed Contracts.*

Federal grantor pre-award review and approval of the grantee's proposed contracts and related procurement documents, such as requests for proposals and invitations for bids, is permitted only under the following circumstances:

a. The procurement is expected to exceed $10,000 and is to be awarded without competition or only one bid or offer is received in response to solicitation.

b. The procurement expected to exceed $10,000 specifies a "brand name" product; or

c. The grantee's procurement procedures or operation fails to comply with one or more significant aspects of this Attachment. The grantor agency shall notify the grantee in writing, with a copy of such notification to the OFPP.

7. *Code of Conduct.*

Grantees shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

a. The employee, officer or agent;

b. Any member of his immediate family;

c. His or her partner; or

d. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

Grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

To the extend permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents.

8. *Procurement Procedures.*

The grantee shall establish procurement procedures which provide that proposed procurement actions shall be reviewed by grantee officials to avoid the purchase of unnecessary or duplicative items. Consideration should be given to consolidation or breaking out to obtain a more economical purchase. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical. To foster greater economy and efficiency grantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

9. *Contracting With Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms.*

a. It is national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

(1) Including qualified small and minority businesses on solicitation lists.

(2) Assuring that small and minority businesses are solicited whenever they are potential sources.

(3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

(4) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.

(5) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.

(6) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in 1 through 5 above.

b. Grantees shall take similar appropriate affirmative action in support of women's business enterprises.

c. Grantees are encouraged to procure goods and services from labor surplus areas.

d. Grantor agencies may impose additional regulations and requirements in the foregoing areas only to the extent specifically mandated by statute or presidential direction.

10. *Selection Procedures.*

a. All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this attachment. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to: (1) placing unreasonable requirements on firms in order for them to qualify to do business, (2) noncompetitive practices between firms, (3) organizational conflicts of interest, and (4) unnecessary experience and bonding requirements.

b. The grantee shall have written selection procedures which shall provide, as a minimum, the following procedural requirements:

(1) Solicitations of offers, whether by competitive sealed bids or competitive negotiation, shall:

(a) incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

(b) clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(2) Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

11. *Method of Procurement.*

Procurement under grants shall be made by one of the following methods, as described herein: a) small purchase procedures; b) competitive sealed bids (formal advertising); c) competitive negotiation; d) noncompetitive negotiation.

a. Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property, costing in the aggregate not more than $10,000. Grantees shall comply with State or local small purchase dollar limits under $10,000. If small purchase procedures are used for a procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.

b. In competitive sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price.

(1) In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum, the following:

(a) A complete, adequate and realistic specification or purchase description is available.

(b) Two or more responsible suppliers are willing and able to compete effectively for the grantee's business.

(c) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

(2) If formal advertising is used for a procurement under a grant, the following requirements shall apply:

(a) A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.

(b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

(c) All bids shall be opened publicly at the time and place stated in the invitation for bids.

(d) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the Grantee indicates that such discounts are generally taken.

(e) Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.

c. In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is publicized, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for a procurement under a grant, the following requirements shall apply:

(1) Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Poposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

(2) The request for proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance.

(3) The grantee shall provide mechanisms for technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for contract award.

(4) Award may be made to the responsible offeror whose proposal will be most adavantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.

(5) Grantees may utilize competitive negotiation procedures for procurement of Architectural/Engineering professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

d. Noncompetitive negotiation is procurement through soliciation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

(1) The item is available only from a single source;

(2) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive soliciation;

(3) The Federal grantor agency authorizes noncompetitive negotation; or

(4) After solicitation of a number of sources, competition is determined inadequate.

e. Additional innovative procurement methods may be used by Grantees with the approval of the Grantor Agency. A copy of such approval shall be sent to OFPP.

12. *Contract Pricing.*

The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used. Grantees shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under grants shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.

13. *Grantee Procurement Records.*

Grantees shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to, information pertinent to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

14. *Contract Provisions.*

In addition to provisions defining a sound and complete procurement contract, any recipient of Federal grant funds shall include the following contract provisions or conditions in all procurement contracts and subcontracts as required by the provision, Federal Law or the Grantor Agency.

a. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

b. All contracts in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. All contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

d. All contracts and subgrants for *construction* or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

e. When required by the Federal grant program legislation, all *construction* contracts in excess of $2,000 awarded by grantees and subgrantees shall include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a–7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

f. Where applicable, all contracts awarded by grantees and subgrantees in excess of $2,000 for *construction* contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327–330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

g. The contract shall include notice of grantor agency requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of grantor agency requirements and regulations pertaining to copyrights and rights in data.

h. All negotiated contracts (except those awarded by small purchases procedures) awarded by grantees shall include a provision to the effect that the grantee, the Federal grantor agency, the Comptroller General of the United

States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

Grantees shall require contractors to maintain all required records for three years after grantees make final payments and all other pending matters are closed.

i. Contracts, subcontracts, and subgrants of amounts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to the grantor agency and to the U.S.E.P.A. Assistant Administrator for Enforcement (EN–329).

j. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94–163).

Grantor Agencies are permitted to require changes, remedies, changed conditions, access and record retention and suspension of work clauses approved by the Office of Federal Procurement Policy.

15. *Contract Administration.*

Grantees shall maintain a contract administration system insuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

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August 15, 1979

Part V

Environmental Protection Agency

New Motor Vehicle Emission Standards for Oxides of Nitrogen

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1297-1]

Emissions of Oxides of Nitrogen; Decision of the Administrator

I. Introduction

Section 202(b)(1)(B) of the Clean Air Act, as amended (Act),[1] requires that emissions of oxides of nitrogen (NOx) from light-duty vehicles and engines manufactured during and after model year 1981 not exceed 1.0 grams per vehicle mile (gpm). This section also provides that the Administrator shall prescribe standards in lieu of the 1.0 gpm standard which require NOx emissions not to exceed 2.9 gpm for any 1981 and 1982 model year light-duty vehicle produced by qualifying manufacturers. To qualify, the manufacturer's worldwide light-duty vehicle production for calendar year 1976, by corporate identity, must have been less than three hundred thousand, and the Administrator must determine that—

(i) The ability of the manufacturer to meet emission standards in 1975 and subsequent model years was, and is, primarily dependent upon technology developed by other manufacturers and purchased from such manufacturers; and

(ii) The manufacturer lacks the financial resources and technological ability to develop such technology.

The provision for extension of the 1980 No_x standard of 2.0 gpm was adopted to allow small manufacturers which lack the financial and technological resources to design their own pollution control technology the additional leadtime necessary to develop adequate experience and confidence in advanced systems technology purchased from other manufacturers.[2]

A request for such a delay of the statutory 1.0 gpm No_x standard was filed with the Environmental Protection Agency (EPA) on October 18, 1978, by American Motors Corporation (AMC).[3] On November 21, 1979, EPA forwarded guidelines to AMC for submission of information to enable the Administrator to make the statutorily prescribed determinations.[4] AMC submitted a response to those guidelines on January 12, 1979.[5] A Federal Register notice was published on May 3, 1979, which provided notice of receipt of AMC's January 12, 1979 application, and established guidelines for other manufacturers which might submit similar applications.[6] The notice also requested public comment on the guidelines and on EPA's preliminary conclusion that AMC appeared to qualify under section 202(b)(1)(B).[7] A thirty day period was provided for public comment. No comments were received.

Summary of Decision

I have determined that AMC has demonstrated that it qualifies under the statutory criteria for a two year delay in application of the 1.0 gpm No_x standard. AMC has documented that its 1976 calendar year worldwide light-duty vehicle production was less than 300,000. Its dependence upon the technology developed by other automobile manufacturers in complying with 1975 and subsequent model year Federal emission standards also is documented. Not only does AMC purchase all of its major emission control equipment from other automobile manufacturers, but in many cases it also relies upon other manufacturers to supply technical expertise to enable AMC to integrate the equipment into its production vehicles.

AMC has demonstrated that it lacks the technological capability to develop independently the technology necessary to meet Federal emission standards. AMC's claimed lack of facilities and personnel needed to develop the increasingly complex emission control systems required to comply with Federal emission standards is supported by its continued reliance upon other manufacturers for purchase of emission control technology. Further, AMC has claimed that it could not apply technologies developed by other manufacturers in time to meet the 1981–82 Federal emission standards.

Based on AMC's estimate of the financial resources necessary to develop its own emission control technologies and an examination of AMC's present financial position, it appears that AMC lacks the resources necessary for such development. Further, it appears that no amount of additional investment would accelerate AMC's application of purchased technology sufficiently to enable it to meet the 1981 model year Federal emission standards in the 1981–82 model years.

Because AMC meets the criteria established by Congress for granting a delay of the model year 1981 Federal emission standards, I am prescribing a No_x standard of 2.0 gpm to be applied to light-duty vehicles manufactured by AMC in model years 1981 and 1982.[8]

III. Discussion

A. Calendar Year 1976 Production

Only those manufacturers which, by corporate identity, produced less than 300,000 light-duty vehicles worldwide in calendar year 1976, are eligible for the No_x extension. AMC has reported its 1976 worldwide light-duty vehicle production to have been 256,819,[9] bringing it within the production limitation.

Subsidiaries of AMC which fall within its "corporate identity," such as the Jeep and AM General Corporations, produce vehicles classified as light-duty trucks under EPA regulations and are not included in the worldwide production figure.[10]

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[1] 42 U.S.C. 7521(b)(1)(B) (1977).

[2] The small-volume manufacturer provision evolved from the original Senate version of the 1977 amendments to the Act, which would have exempted manufacturers representing less than 3 percent of light duty vehicle world sales from bringing 10 percent of their 1979 light-duty vehicle production into compliance with the 1980 No_x standard of 1.0 gpm. S. Rep. No. 95–127, 95th Cong., 1st Sess. 71 (1977). Senator Nelson later sponsored an amendment to establish an "interim compliance schedule" for small manufacturers "in whose case the Administrator determines that the ability to meet 1975 and later model year emission standards was and is primarily dependent upon technology developed by (and purchased from) others." 123 Cong. Rec. 9231 (daily ed. June 9, 1977). The schedule allowed compliance with a No_x standard of 2.0 gpm in 1980 and 1981 and 1.0 gpm in 1982. Id. at 9232. Senator Baker's amendment, incorporated into the final Senate bill, provided for a 2.0 gpm standard for any 1980 or 1981 light-duty vehicle produced by certain manufacturers. 123 Cong. Rec. 9292 (daily ed. June 9, 1977). The conference bill applied the extension to model years 1981–1982 since the 1.0 gpm No_x standard was first to be met in 1981, and added the criterion that the Administrator determine the manufacturer lacked the financial resources and technological ability to develop such technology. H.R. Rep. No. 95–564, 95th Cong., 1st Sess. 73 (1977).

[3] Letter from William C. Jones, Manager, Emissions and Energy Standards, American Motors Corporation (AMC), to Douglas M. Costle, Administrator, Environmental Protection Agency (EPA), October 18, 1978.

[4] Letter from Charles N. Freed, Acting Director, Mobile Source Enforcement Division, EPA, to William C. Jones, AMC (November 21, 1978).

[5] "AMC Response to the Guidelines" (hereinafter "AMC App.") attached to letter from William C. Jones, AMC, to Charles N. Freed, EPA (January 12, 1979).

[6] 44 FR 25883 (1979).

[7] 44 FR 25883, 25884 (1979).

[8] In reaching the determination that AMC meets the criteria established in section 202(b)(1)(B), I have not considered the separate question whether it is technologically feasible for AMC to produce a given percentage of its vehicles to meet the California No_x standard applicable for the 1980 model year. Consequently, any conclusions reached in this decision should not be interpreted as constituting judgments on that issue. The question whether AMC is entitled to any special relief from California's 1980 No_x standards is currently pending in the case of *American Motors Corporation* v. *Costle*, No. 78–1709 (D.C. Cir., filed August 16, 1978).

[9] AMC App. 1.

[10] See AMC App. 1; 40 CFR Part 86 (1978).

B. Dependence Upon Technology of Other Manufacturers

My determination that AMC's ability to comply with 1975 and later model year emission standards was, and is, primarily dependent upon technology developed by, and purchased from other manufacturers [11] stems from two considerations: Whether AMC has purchased and will continue to purchase the emission-related components or systems needed to meet 1975 through 1981 model year Federal emission standards, and whether AMC's ability to meet the standards depends primarily upon purchase of components or systems "developed by" other manufacturers.[12]

The major emissions-related components for all the emission control systems used on AMC passenger car engine families to meet 1975 through 1981 model year standards are purchased from other manufacturers.[13] Some of the major components are acquired through pre-arranged purchase agreements with manufacturer-vendors. For example, AMC has entered annual agreements with General Motors Corporation since 1975 for purchase of certain components.[14] For some engine families, AMC purchases basic systems or total engine-emission control systems.[15]

Each component or emission control system purchased by AMC is "developed by" another manufacturer in that the basic technology already has been established and applied to control of particular motor vehicle emissions. In most cases, the capability of a particular technology to achieve desired levels of emission control has been demonstrated by the supplier-vehicle manufacturer.[16] The suppliers generally have had several years of research and development experience or actual certification and production experience with the components or systems at a less stringent level of standards before they become available to AMC.[17]

The development work engaged in by AMC primarily consists of evaluation and selection of emission control components and "adaptation" of the assembled components or basic systems to AMC vehicles.[18] After evaluating and assembling a final package of components, a development phase is conducted in which the final component or system candidates are tested on vehicles at various parameter adjustments and configurations.[19] This is followed by a precertification phase where fuel efficiency, performance, and driveability are maximized to make AMC vehicles competitive with its supplier's vehicles.[20]

Although AMC does conduct specific component development work, that work consists primarily of selecting and integrating the most compatible components into a reliable calibration configuration for each engine family.[21] A substantial amount of this work is conducted jointly with the supplying manufacturer.[22]

AMC also purchases and applies basic systems and total engine-emission control systems to some engine families.[23] Although the technology is substantially developed, AMC must certify the vehicle to ensure compliance with all Federal emissions requirements.[24]

AMC depends upon it suppliers for technological expertise as well as for the components themselves.[25] For example, since 1970 it has entered annual agreements with General Motors Corporation (GM) to obtain basic and applied research and development information covering a broad range of emissions and fuel economy topics.[26] AMC also has maintained a consulting agreement in the area of engine development.[27]

As AMC seeks a delay of the 1981 NOx standard of 1.0 gpm, I have inquired into AMC's reliance upon other manufacturers' technologies to meet the 1.0 gpm NOx standard. AMC has stated that conventional emission control technology (i.e., non-three-way catalyst technology) cannot be used to attain the low NOx levels and other emissions requirements in the 1981 model year. Therefore, AMC is purchasing components and systems reflecting new technologies in the 1980 model year, to be used as the basis for compliance with the 1.0 gpm NOx standard in its later model year engines.[28] However, AMC has stated that its lack of experience with the new technologies and its lack of production and in-use information on the systems places AMC at least two years behind the major manufacturers in adapting and applying the new technology.[29] Therefore, AMC will need additional lead time to engage in post-purchase development work to achieve acceptable levels of emission control, fuel efficiency and performance.[30]

In summary, AMC's dependency upon technology developed by others to meet emission standards is shown by its purchase of major emission-related components or systems. All components or systems are "developed" by other manufacturers in that their capabilities already have been demonstrated through development and testing by the supplier-manufacturer. Although AMC further "develops" the components or systems for use in AMC's vehicles, the basic technology is established before AMC's purchase. Since AMC's ability to bring all of its engine families into compliance with 1975–82 model year emission requirements results from its purchase and integration of other manufacturers' components or systems, AMC is deemed to be "primarily dependent" upon technology developed by, and purchased from, other manufacturers.

C. Lack of Financial Resources and Technology Ability To Develop the Necessary Technology

I have examined the company's financial position in the period 1974–1980 to assess AMC's ability to finance the programs necessary for it to develop internally the technology required to

[11] For purposes of this decision, "other manufacturers" are deemed to be other motor vehicle manufacturers. The term "manufacturer" is defined in Section 216(1) of the Act as "any person engaged in the manufacturing or assembling of new motor vehicles or . . . engines." 42 U.S.C. 7550(1) (1977).

[12] Development by other manufacturers is deemed to mean that the development necessary to demonstrate the capability of a component or system to meet Federal requirements has been accomplished.

[13] AMC App. 3, 7, 12.

[14] AMC App. 22.

[15] AMC App. 3; Responses attached to Letter from William C. Jones, AMC, to Matthew A. Low, EPA, 3–4 (February 16, 1979) (hereinafter "AMC February 16, 1979 Response").

[16] *See* AMC App. 12.

[17] AMC App. 6–7, 12. An example of this was AMC's procurement of three-way catalyst technology from Ford Motor Company for the 1980 model year. AMC App. 14.

[18] AMC App. 6; See AMC App. 12–14.

[19] AMC App. 13.

[20] AMC App. 6, 12, 13, 15.

[21] AMC App.6–8.

[22] AMC App.7.

[23] *See, e.g.*, AMC App. 13–15 (AMC purchase, adoption-and-development of Ford's three-way catalyst, electronic control unit, feedback carburetor and stepper motor); AMC February 16, 1979 Response 5–6 (AMC purchase of total engine-emission control system from Pontiac Motors for its 4-cylinder 1980 model year passenger cars).

[24] AMC February 16, 1979 Response 3–6.

[25] AMC App. 21–22; see AMC App. 14.

[26] AMC App. 21.

[27] AMC App. 21–22 (Ricardo-AMC Consultation Agreement).

[28] AMC App. 13–15 (three-way catalyst system for 6-cylinder engines); AMC February 16, 1979 Response (total engine-emission control system for 4-cylinder engines).

[29] AMC 14–15.

[30] AMC App. 2, 15; AMC February 16, 1979 Response 3–6. AMC must be able to gather production and in-use information as a basis for achieving the 1981 statutory requirements. An example of its dependent position is its procurement of the total engine-emission control system for compliance of its 4-cylinder engines with 1980 model year emissions requirements. Until GM provides prototypes to AMC, AMC cannot begin its development work.

meet emission standards in model years 1975–81.[31] This included an inquiry into whether AMC, given its present financial status and technological abilities, could develop the technology currently available to the company to meet the NOx standard of 1.0 gpm in time to meet 1981 and 1982 model year certification testing and production schedules.[32]

AMC has claimed that independent and self-sustaining emission control research and development programs require resources that have historically been outside of AMC's reach.[33] This has forced AMC to depend upon other manufacturers to develop and provide the technology for basic emission control systems, and increasingly stringent emissions requirements in 1980 and later model years will intensify this forced dependency.[34] I cannot conclude from available information that it is "inconceivable" that AMC could have invested in internal development programs to meet emission standards, as claimed by AMC, rather than investing in purchasing and adapting other manufacturers' basic systems.[35] However, I am able to conclude that, if the financial resources to make such investments were or are presently available to AMC, they would be available at such a high cost to the company that it would weaken substantially its competitive position in the domestic auto market.

My conclusion is based upon AMC's financial status and market position throughout the relevant period. The earnings generated internally by the company, although reflecting the cyclical nature of the auto industry, generally have been poor.[36]

AMC claims that its small passenger car sales volumes preclude increasing its present expenditures to achieve self sufficiency for research and development of the necessary emission control components and systems.[37] It is difficult to determine the impact of this factor on AMC's ability to achieve such self sufficiency. However, when viewed in combination with other factors, it may contribute to the impracticality for AMC to initiate, at this time, a program to develop its own technology designed to meet the 1981–82 Federal emission standards.

AMC's steadily decreasing sales volumes and falling percentage market share since 1975[38] have increased AMC's need to minimize costs in order to remain viable. AMC's efforts aimed specifically at minimizing costs for other than essential expenditures have increased each year.[39] At the same time, its emissions-related development costs have increased substantially each year, even without incurring the cost of the higher-risk programs accompanying independent technology development.[40] Because internal development would involve not only increased research and development costs, but also reliability testing and tooling costs,[41] AMC's available cash and liquid assets probably would be insufficient to cover those costs at this time.[42]

External financing at this time of any additional costs incurred by independent technology development does not appear to be a viable alternative to AMC's internal generation of cash flow through car sales. The price range of AMC stock has continuously fallen since 1974, making it difficult for the company to issue stock at a reasonable cost to finance internal development of pollution control technology.[43] The company also is not in a position to readily issue additional

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[31] An examination of AMC's financial status in the period 1974 through 1979 is pertinent to the firm's technological development for the 1975–81 model years due to the firm's lead time requirements. For instance, AMC's 1981 development must be essentially completed by the end of the 1979 fiscal year (9/30/79), since the 1981 certification cycle is scheduled to begin in August 1979. *See* AMC App. 28.

For purposes of this decision, the technology necessary to meet the subject emission standards is deemed to be the emission control systems developed by other manufacturers which have demonstrated capability to meet certification and in-use requirements.

The most direct method for determining whether AMC could independently develop this technology would involve comparing other manufacturers' costs to develop particular systems with estimated costs for AMC to develop the system. However, because design and development of most emission control systems by auto manufacturers involves years of planning, investment, prototype development, and testing, and because each manufacturer relies to differing degrees on the technology of others (e.g., catalyst manufacturers) it would be difficult to estimate the development costs incurred by other manufacturers. In addition, even if an estimate of the long-term or yearly cost of internally developing a particular technology could be made, it could not be compared to AMC's purchase/development costs to determine if AMC could reallocate its expenditures for independent development. This is because AMC's development costs for a single fiscal year cover a number of future model year control systems, which would be difficult to separate into costs incurred for each system. Also, AMC's "purchase" costs are based upon expenditures for each model year which cannot be integrated with AMC "development" costs to derive a total annual cost incurred to meet emission standards. (Letter from William C. Jones, AMC, to Matthew A. Low, EPA, 2 (March 13, 1979) [hereinafter "AMC March 13, 1979, letter.]

Therefore, I have examined AMC's financial position in terms of its overall ability to generate additional capital to initiate independent development programs for the 1975 and later model years without relying on partially developed systems acquired from others.

[32] Assuming that AMC has not been able to initiate self-sustaining and independent internal development programs, an important consideration remains. Since the extension applies to the 1981–82 model years, it should be determined whether AMC, using its current financial and technological resources, could meet the 1981 NOx standard.

[33] AMC App. 25, 28; AMC February 16, 1979 Letter 1.

[34] AMC February 16, 1979 letter, 2.

[35] In order to conclude that AMC could not have invested in independent development programs, I would need the following information: (1) AMC's total purchase/development costs for each system; (2) the costs theoretically incurred for AMC to internally develop the system; (3) the incremental cost to AMC from a comparions of (1) and (2) above; (4) whether AMC's cash flow is sufficient to cover (3) above. Because AMC could not provide the information in (1) and (2) above, EPA could not establish conclusively that AMC's finances would not be sufficient for independent development.

[36] Internal generation of cash flow is limited, as evidenced by the following figures on earnings:

[Dollars in thousands]

1978	1977	1976	1975	Average
36,690	8,266	46,340	27,500	7,221

Moody's Investors Service, Inc., Moody's Industrial Manual, 15 (1978) [hereinafter "Moody's"]

[37] AMC App. 25.

[38] In the 1976 model year, AMC sold 295,062 cars. This decreased to 208,367 in the 1977 model year, and 164,749 in the 1978 model year. AMC March 13, 1979 Letter 2. AMC's share of the U.S. market has decreased as shown in the following table:

[Percentage of total industry sales (1%)]

1979	1978	1977	1976	1975	1974
1.28 (estimated)	1.6	1.9	2.8	3.6	4

SEC Forms 10-k (American Motors Corporation Annual Reports), File No. 1-622 (1977, 1978) [hereinafter 1977 or 1978 "SEC Forms"].

[39] For example, AMC has made less significant year to year styling change in its existing models due to the substantial financial commitments needed for product specification, engineering and styling. Also, AMC's net additions to property, plant and equipment also have fallen, even in nominal terms. 1977 SEC Form at 5–6, 1978 SEC Form at 5–6.

[40] The increase in development costs is shown by the following table:

[AMC passenger car emissions development costs; dollars in thousands]

1975	1976	1977	1978
4,734	7,017	6,084	7,356

AMC App. 27.

[41] AMC App. 25, 27; AMC March 13, 1979 letter, 2.

[42] AMC's current debt/equity ratio has fallen over the period 1973–77, reflecting a decrease in liquidity and possibly in cash and liquid assets available for uses other than essential expenditures. Moody's at 117.

[43] The rate of return on assets and equity has fallen from 1974 to 1977, as has AMC stock, from 13% to 3%. Moody's at 117. This reflects a market perceived decrease in the value of the firm, preventing easy issuance of stock.

debt at a reasonable cost to finance the increased operating expenditures.[44]

Because the cost to operate internal development programs are considered by AMC to be prohibitive for a company of its current or projected use rates, AMC has not acquired the facilities or personnel to engage in independent research and development programs.[45] Consequently, AMC's level of technological development is claimed to be two years behind that of the major manufacturers, since it must rely on use of already-developed systems which AMC adapts to its vehicle configurations.[46] Its lack of technological capabilities has resulted in reliance upon other manufacturers not only for acquisition of equipment, but also for consultation with technical staffs of other manufacturers and companies on vehicle emissions and fuel economy issues.[47] This consultation substitutes, to a degree, for AMC's inability to funds its own basic and applied research programs.[48]

Even if AMC could obtain the necessary financing, there is insufficient lead time remaining for AMC to develop its own technologies to meet the 1.0 gpm NOx standard in 1981 and 1982. Given AMC's current lack of independent development programs and facilities, it would be impossible for it to implement such programs, design and manufacture its own technology within the remaining two years lead time.

In addition, the remaining lead time does not appear to be sufficient for AMC to meet the 1.0 gpm emission standard even it if attempted to apply the technology developed by, and purchased from, other manufacturers. AMC states that it requires at least two years of development and experience to adapt a purchased system, already demonstrated to be reliable by another manufacturer, to its vehicle configurations with comparable reliability, driveability, fuel economy, durability and emissions levels.[49] Even in cases where AMC is accelerating application of technology which another manufacturer has demonstrated to be capable of meeting the 1.0 gpm standard, AMC states that it requires two years of post-production lead time to insure its vehicles' compliance with all 1981–82 Federal emission requirements.[50]

IV. Final Decision and Amended Rule

Section 202(b)(1)(B) of the Act requires that I prescribe standards which provide that NOx emissions may not exceed 2.0 gpm for any light duty vehicle manufactured during model years 1981 and 1982 by qualifying manufacturers. Based upon the foregoing discussion of AMC's qualifications, I hereby am prescribing a NOx standard of 2.0 gpm applicable to AMC's 1981 and 1982 model year light duty vehicles.

Part 86 of Chapter 1, Title 40 of the Code of Federal Regulations, as applicable to 1981 and later model year light-duty vehicles, is amended below. (See FR Doc. 79–25230 which follows.)

Dated: Aug. 8, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79–25229 Filed 8–14–79; 8:45 am]

BILLING CODE 6560–01–M

[44] The lending rate for AMC is 2 percent over prime. This risk premium reflects the fact that, from 1973 to 1977, "times charges earned" (i.e., earnings/interest charges) has fallen from 12.43 to 1.36, showing a decreased ability to meet debt obligations and to pay interest. Moody's at 117.

[45] AMC App. 16.

[46] *Id.*

[47] See AMC App. 21–22. (GM–AMC Consultation Agreement; Ricardo Consulting Engineers Consulting Agreement).

[48] AMC App. 22.

[49] AMC App. 15.

[50] AMC February 16, 1979 letter, 3–6. AMC has stated that concurrent introduction of another manufacturer's technology is not possible in model years 1981 and 1982. AMC's concurrent introduction of General Motor's Pontiac "X/engine" in 1980 model year Federal and California cars is possible because Pontiac was pulling its 1980 program ahead by approximately 6 months. Also, the 1980 system cannot be adapted by AMC to meet the 1981 requirements without the two year lead time normally required to adapt basic systems to its vehicles. *Id.*

AMC also has stated that the technology to be used to meet California's 1980 and later model year emission standards cannot be developed by AMC in time to meet 1981 Federal emissions requirements due to such complicating factors as Federal fuel economy requirements and inability to carry over 1980 California deterioration factors. *See* AMC App. 19–20; AMC February 16, letter, 5–6.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL 1297-2]

New Motor Vehicle Emission Standards for Oxides of Nitrogen (NOx)

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This regulation establishes the NOx emission standards for 1981 and 1982 model year light-duty vehicles manufactured by American Motors Corporation in order to make effective the Decision of the Administrator published above.

EFFECTIVE DATE: September 14, 1979.

FOR FURTHER INFORMATION CONTACT: Maureen D. Smith, Mobile Source Enforcement Division (EN-340), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 426-9436.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(B) of the Clean Air Act, 42 U.S.C. 7521(b)(1)(B) ("Act"), requires that NOx emissions from light-duty vehicles and engines manufactured in the 1981 and later model years not exceed 1.0 grams per vehicle mile (gpm). This section also directs the Administrator to prescribe standards, in lieu of the 1.0 gpm standards, which provide that NOx emissions may not exceed 2.0 gpm for any light-duty vehicle manufactured during model years 1981 and 1982 by any manufacturer for which the Administrator can make the requisite statutory determinations. The statutory criteria and my determinations with respect to American Motors Corporation (AMC) appear in the decision published above.

Having determined in the decision published above that AMC has met the waiver criteria of section 202(b)(1)(B), I am required by statute to promulgate the appropriate regulations adopting the 2.0 gpm NOx standard to apply to 1981 and 1982 model year light-duty vehicles manufactured by AMC. Therefore, I find good cause to dispense with a comment period prior to promulgation of the final rule. However, it should be noted that an opportunity was given for comment on AMC's application and EPA's preliminary assessment that AMC appeared to qualify for a waiver. No comments were received. Note: The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: August 8, 1979.

Douglas M. Costle,

Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and for 1977 and Later Model Year New Heavy-Duty Engines

40 CFR, § 86.081-8(a)(1), published at 43 FR 37972 (August 24, 1978), is revised as follows:

§ 86.081-8 Emissions standards for 1981 light-duty vehicles.

(a)(1) Exhaust emissions from 1981 and later model year light-duty vehicles shall not exceed:

(i) Hydrocarbons. 0.41 grams per vehicle mile;

(ii) Carbon monoxide. 3.4 grams per vehicle mile;

(iii) Oxides of nitrogen. 1.0 gram per vehicle mile, except that oxides of nitrogen emissions from 1981 and 1982 light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile.

[FR Doc. 79-25230 Filed 8-14-79; 8:45 am]

BILLING CODE 6560-01-M

federal register

Wednesday
August 15, 1979

Part VI

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; August 1979

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

August 1979.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special meesage has been transmitted to the Congress.

This month's report gives the status as of August 1, 1979, of 11 rescissions and 58 deferrals contained in the first ten special messages of FY 1979. These messages were transmitted to the Congress on October 2, November 30, December 7, December 12, 1978, January 31, February 14, March 15, April 4, April 26, and July 24, 1979.

Rescissions (Table A and Attachment A)

Congressional action has been completed on all FY 1979 rescission proposals. Table A summarizes the status of rescissions proposed by the President as of August 1, 1979, while Attachment A shows the history and status of each rescission proposed during FY 1979.

Deferrals (Table B and Attachment B)

As of August 1, 1979, $2,720.8 million in 1979 budget authority was being deferred from obligation and another $2.7 million in 1979 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during FY 1979.

Information from special messages

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the **Federal Registers** of:

Wednesday, October 11, 1978 (Vol. 43, No. 197, Part III)
Wednesday, December 6, 1978 (Vol. 43, No. 235, Part III)
Wednesday, December 13, 1978 (Vol. 43, No. 240, Part III)
Monday, December 18, 1978 (Vol. 43, No. 243, Part VI)
Monday, February 5, 1979 (Vol. 44, No. 25, Part VI)
Wednesday, February 21, 1979 (Vol. 44, No. 36, Part VII)
Tuesday, March 20, 1979 (Vol. 44, No. 55, Part VIII)
Monday, April 9, 1979 (Vol. 44, No. 69, Part VI)
Tuesday, May 1, 1979 (Vol. 44, No. 85, Part V)
Monday, July 30, 1979 (Vol. 44, No. 147, Part IX)

James T. McIntyre, Jr.,

Director.

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Table A

STATUS OF 1979 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Rescissions proposed by the President	$908.7 a
Accepted by the Congress	-723.6 b
Rejected by the Congress	-185.1 c
Pending before the Congress	-0-

* *

Table B

STATUS OF 1979 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$4,380.0
Routine Executive releases (-$1,660.9 million) and adjustments (+$12.8 million) through August 1, 1979	-1,648.1
Overturned by the Congress	-8.4
Currently before the Congress	2,723.6 d

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a. This amount is net of a $6.0 million reduction proposed in a Small Business Administration rescission (R79-11A).

b. Public Law 96-7.

c. Of this amount, $51.0 million is presently deferred (D79-55 and D79-29A).

d. This amount includes $2.7 million in outlays for a Department of the Treasury deferral (D79-25B).

* Detail does not add to total due to rounding.

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 AS OF 08/01/79 16:57

AS OF AUGUST 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF ENERGY							
Energy Programs							
Fossil energy construction BA	R79- 2	50,000a		1 31 79			
DEPARTMENT OF ENERGY TOTAL BA		50,000					
DEPARTMENT OF HEALTH, EDUCATION AND WELFARE							
National Institutes of Health							
Buildings and facilities BA	R79- 3	37,000		1 31 79	37,000b		
Health Resources Administration							
Health resources BA	R79- 4	167,893		1 31 79	46,350b	121,543	3 28 79
Office of Education							
Special projects and training BA	R79- 5	22,365		1 31 79	12,500b	9,865	3 28 79
DEPARTMENT OF HEALTH, EDUCATION AND WELFARE TOTAL BA		227,258			95,850	131,408	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Subsidized housing programs BA							

AS OF AUGUST 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
	R79- 6	600,000		1 31 79	600,000b		
New Communities Development Corporation							
New community assistance grants BA	R79- 7	8,167		1 31 79	8,167b		
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		608,167			608,167		
DEPARTMENT OF THE INTERIOR							
Bureau of Mines							
Helium fund BA	R79- 8	3,127		1 31 79	3,127b		
DEPARTMENT OF THE INTERIOR TOTAL BA		3,127			3,127		
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION							
Research and program management BA	R79- 9	2,400		1 31 79	2,400b		
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TOTAL BA		2,400			2,400		
OTHER INDEPENDENT AGENCIES							
Foreign Claims Settlement Commission							

PAGE 3 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 AS OF 08/01/79 16:57

AS OF AUGUST 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Payment of Vietnam prisoner of war claims							
BA	R79-10	9,000c		1 31 79	8,000b	d	
Salaries and expenses							
BA	R79- 1	75		11 30 78		75	3 13 79
Small Business Administration							
Salaries and expenses							
BA	R79-11	14,665		1 31 79			
BA	R79-11A	-6,000		3 15 79	6,065b	2,600	3 28 79
OTHER INDEPENDENT AGENCIES TOTAL BA		17,740			14,065	2,675	
TOTAL BA		908,692			723,609	134,083e	

FOOTNOTES

a. These funds are included in a deferral (D79-55) transmitted to the Congress on April 26, 1979.

b. Public Law 96-7.

c. This amount was initially deferred (D79-29) in a special message transmitted to the Congress on October 2, 1978.

d. $1.0 million of the $9.0 million proposed for rescission is included in a deferral (D79-29A) transmitted to the Congress on April 26, 1979.

e. In addition to these amounts, rescissions totalling $51.0 million were rejected by the Congress, but are now included in deferrals D79-55 and D79-29A (as indicated under footnotes a and d).

END OF REPORT

PAGE 1 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 08/01/79 16:51

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-79
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Military assistance	BA	D79-31	161,875		11 30 78	-161,875a			
International military education and training	BA	D79-35	24,312		12 7 78	-24,312a			
Foreign military credit sales	BA	D79-45	651,000		12 12 78	-638,750			12,250
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		837,187			-824,937			12,250
DEPARTMENT OF AGRICULTURE									
Foreign Agricultural Service									
Salaries & expenses (special foreign currency)	BA	D79- 1	415		10 2 78	-13			402
Agricultural Stabilization & Conservation Service									
Commodity credit corporation	BA	D79- 2	3,530		10 2 78				
	BA	D79- 2A			12 7 78	-3,530			
Forest Service									
Acquisition of lands for Wasatch National Forest	BA	D79-36	209		12 7 78				209
Timber salvage sales	BA	D79-37	5,500		12 7 78	-702			4,798
Expenses, brush disposal	BA	D79- 3	32,225		10 2 78				
	BA	D79- 3A		5,276	1 31 79				37,501

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-79
Restoration of forest lands	BA	D79- 4	48		10 2 78				48
DEPARTMENT OF AGRICULTURE TOTAL	BA		41,927	5,276		-4,245			42,958
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	BA	D79-47	500		1 31 79				500
Construction	BA	D79- 5	9,830		10 2 78				
	BA	D79- 5A		202	12 12 78	-10,032			
Promote and develop fishery products and research	BA	D79- 6	12,060		10 2 78	-5,481	-6,579b		
Fisheries loan fund	BA	D79- 7	5,429		10 2 78				
	BA	D79- 7A		208	1 31 79				5,637
United States Fire Administration									
Facilities	BA	D79-32	6,150		11 30 78	-6,150			
Maritime Administration									
Ship construction	BA	D79-33	157,000		6 25 79	-157,000			
DEPARTMENT OF COMMERCE TOTAL	BA		190,969	410		-178,663	-6,579		6,137
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy	BA	D79-34	563,940		11 30 78				563,940

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-79
Research, Development, Test, and Evaluation									
Navy									
	BA	D79-53	107,964		4 4 79	-107,964a			
Military Construction									
Military construction, all services									
	BA	D79- 8	548,451		10 2 78	-479,361		20,703	89,793
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA			1,220,355			-587,325		20,703	653,733
DEPARTMENT OF DEFENSE-CIVIL									
Corps of Engineers									
Alaska hydroelectric power development fund									
	BA	D79-10	5,450		10 2 78				5,450
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services									
	BA	D79- 9	458		10 2 78				
	BA	D79- 9A		130	1 31 79	-38			550
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA			5,908	130		-38			6,000
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy construction									
	BA	D79-55	50,000c		4 26 79				50,000
	BA	D79-56	570		4 26 79				570
Strategic Petroleum Reserve									
	BA	D79-57	113,528		4 26 79				113,528
Uranium enrichment - operating expenses									
	BA	D79-48	63,000		1 31 79				63,000

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-79
DEPARTMENT OF ENERGY								
TOTAL BA		227,098						227,098
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D79-11	27,577		10 2 78				27,577
Social Security Administration								
Limitation on salaries and expenses								
BA	D79-12	1,725		10 2 78				1,725
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
TOTAL BA		29,302						29,302
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands								
BA	D79-46	12,811		12 12 78				
BA	D79-46A		1,901	1 31 79				14,712
Heritage Conservation and Recreation Service								
Land and water conservation fund								
BA	D79-13	30,000		10 2 78				30,000
Geological Survey								
Exploration of National Petroleum Res. in Alaska								
BA	D79-54	1,792		4 4 79		-1,792d		
Payments from proceeds, sale of water								
BA	D79-14	36		10 2 78				36
Bureau of Mines								

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-79
Drainage of anthracite mines	BA	D79-15	1,700		10 2 78	-363			1,337
Office of Territorial Affairs									
Administration of territories	BA	D79-38	25,000		12 7 78	-25,000			
Trust territory of the Pacific Islands	BA	D79-16	12,000		10 2 78	-12,000			
DEPARTMENT OF THE INTERIOR TOTAL BA			83,339	1,901		-37,363	-1,792		46,085
DEPARTMENT OF JUSTICE									
Legal Activities									
Salaries and expenses, Community Relations Service	BA	D79-49	572		1 31 79				572
Federal Prison System									
Buildings and facilities	BA	D79-17	25,300		10 2 78				
	BA	D79-17A		11,865	11 30 78	-160			37,005
	BA	D79-58	6,200		7 24 79				6,200
DEPARTMENT OF JUSTICE TOTAL BA			32,072	11,865		-160			43,777
DEPARTMENT OF LABOR									
Employment and Training Administration									
Employment and training assistance	BA	D79-50	122,133		1 31 79				122,133

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-79
DEPARTMENT OF LABOR									
TOTAL	BA		122,133						122,133
DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Acquisition, operation, & maintenance of buildings	BA	D79-39	36,787		12 7 78				36,787
Other									
Emergency refugee and migration assistance fund	BA	D79-18	2,750		10 2 78				
	BA	D79-18A		9,500	11 30 78	-12,250			
DEPARTMENT OF STATE TOTAL	BA		39,537	9,500		-12,250			36,787
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination	BA	D79-19	3		10 2 78				3
Facilities & equip. (Airport & airway trust fund)	BA	D79-20	290,176		10 2 78				
	BA	D79-20A		21,259	1 31 79				311,435
Federal Highway Administration									
Trust fund share of other highway programs	BA	D79-21	40,000		10 2 78				
	BA	D79-21A		14,169e	2 14 79				54,169
Overseas highway	BA	D79-22	13,100		10 2 78				13,100
Urban Mass Transportation Administration									
Urban mass transportation fund	BA	D79-51	968,616		1 31 79				968,616

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-79
DEPARTMENT OF TRANSPORTATION									
TOTAL BA			1,311,895	35,428					1,347,323
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Antirecession financial assistance fund									
	BA	D79-23	2,205		10 2 78				
	BA	D79-23A		73	12 7 78	-50			2,228
	O	D79-40	5		12 7 78				
	O	D79-40A		3	1 31 79	-8			
State and local government fiscal assistance fund									
	BA	D79-24	78,489		10 2 78				
	BA	D79-24A		1,665	12 7 78	-616			79,538
	O	D79-25	2,404		10 7 78				
	O	D79-25A		1,562	12 7 78				
	O	D79-25B		11,835f	2 14 79	-14,154		1,088	2,735
Bureau of the Mint									
Construction of mint facilities									
	BA	D79-26	5,730		10 2 78				5,730
DEPARTMENT OF THE TREASURY									
TOTAL BA			86,424	1,738		-666			87,496
TOTAL O			2,409	13,400		-14,162		1,088	2,735
GENERAL SERVICES ADMINISTRATION									
Property Management and Disposal Activities									
Rare silver dollar program									
	BA	D79-27	2,123		10 2 78				2,123
Federal Preparedness Agency									
State and local preparedness									
	BA	D79-28	80		10 2 78				80

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-79
GENERAL SERVICES ADMINISTRATION								
TOTAL BA		2,203						2,203
OTHER INDEPENDENT AGENCIES								
Foreign Claims Settlement Commission								
Payment of Vietnam prisoner of war claims								
BA	D79-29	10,945		10 2 78				
BA	D79-29A		1,000	4 26 79	-1,051		-9,000g	1,894
International Communication Agency								
Salaries & expenses								
BA	D79-41	2,095		12 7 78				2,095
Acquisition & construction of radio facilities								
BA	D79-42	3,141		12 7 78				
BA	D79-42A		7,832	2 14 79				10,973
Interstate Commerce Commission								
Payments for directed rail service								
BA	D79-30	13,990		10 2 78				13,990
Small Business Administration								
White House conference on small business								
BA	D79-43	1,600		12 7 78				1,600
Navaho & Hopi Indian Relocation Commission								
Salaries and expenses								
BA	D79-44	12,000		12 7 78				12,000
Tennessee Valley Authority								
Tennessee Valley Authority fund								
BA	D79-52	15,000		1 31 79				15,000
OTHER INDEPENDENT AGENCIES								
TOTAL BA		58,771	8,832		-1,051		-9,000	57,552
TOTAL BA		4,289,120	75,080		-1,646,698	-8,371	11,703	2,720,834
TOTAL O		2,409	13,400		-14,162		1,088	2,735

FOOTNOTES

a. This amount was released before the special message containing the deferral was transmitted to Congress.

b. Impoundment resolution S. Res. 50 passed the Senate on March 13, 1979, rejecting this deferral.

c. This amount was included in a rescission proposal (R79-2) transmitted to the Congress on January 31, 1979.

d. Impoundment resolution H. Res. 239 passed the House on June 19, 1979, rejecting this deferral.

e. This amount is net of a release of $10,831 thousand that was made prior to the transmittal of this supplementary report.

f. This amount is net of a release of $2,857 thousand that was made prior to the transmittal of this supplementary report.

g. This amount was included in a rescission proposal (R79-10) transmitted to the Congress on January 31, 1979.

END OF REPORT

[FR Doc. 79-25289 Filed 8-14-79; 8:45 am]

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federal register

Wednesday
August 15, 1979

Part VII

Endangered Species Scientific Authority

American Ginseng; Export Findings for 1979 Harvest Season

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

50 CFR Part 810

Export of Appendix II Species American Ginseng; Export Findings for the 1979 Harvest Season

AGENCY: Endangered Species Scientific Authority.

ACTION: Final rulemaking.

SUMMARY: On June 1, 1979 the Endangered Species Scientific Authority (ESSA) proposed findings on a state-by-state basis as to whether export of American ginseng roots harvested in 1979 will not be detrimental to the survival of the species (44 FR 31583 et seq.). This proposal was preceded by an advance notice of proposed rulemaking published in the April 30, 1979 **Federal Register** (44 FR 25383). The ESSA has received substantial comment on the proposal, primarily in the form of state reports in support of no detriment findings. The ESSA hereby establishes final export findings for this season. Federal export permits may be issued only for ginseng roots that were harvested in states for which the Management Authority (U.S. Fish and Wildlife Service) is satisfied the state ginseng management and control programs assure that the roots to be harvested will be legally obtained and certified, and for which the ESSA has found that such export will not be detrimental to the survival of the species.

EFFECTIVE DATE: August 15, 1979.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, NW., Washington, DC 20240. Forthcoming comments and comments already received will be available for public inspection at 1717 H Street NW., Washington, DC, Room 536, 7:45 a.m. to 5:30 p.m., Mondays through Fridays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Information concerning findings by the ESSA contact: Roger E. McManus, Staff Specialist, Endangered Species Scientific Authority, 18th and C Streets, NW., Washington, DC 20240 (202/653–5948).

For information concerning findings by the Management Authority and State Controls contact: Ronald Singer, Staff Biologist, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–2418).

For information concerning Federal Export Permits contact: Bob Batky, Staff Biologist, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

For information concerning procedures for exporting shipments contact: Thomas McIntyre, Staff Specialist, USDA Animal and Plant Health Inspection Service, Federal Building, Hyattsville, Maryland 20782 (301/436–8297).

SUPPLEMENTARY INFORMATION: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and its implementing regulations, 50 CFR Part 23, control international trade in animal and plant species included in any of three appendices, listed in § 23.23. The CITES appendices are distinct from the list of species issued under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq. American ginseng is included in Appendix II to the CITES. Appendix II includes generally those species not necessarily now threatened with extinction, but which may become so unless trade in them is subject to strict regulation. In addition, Appendix II may include species for which trade needs to be regulated to control effectively trade in species included because of biological jeopardy. The CITES requires Parties to control trade in Appendix II specimens through export permits. National management authorities are to administer permit and enforcement activities and national scientific authorities are to ensure that permitted trade will not be detrimental to the species concerned.

The Endangered Species Scientific Authority (ESSA) serves as the U.S. Scientific Authority; the Secretary of the Interior, through the Director of the U.S. Fish and Wildlife Service, serves as the U.S. Management Authority (MA) for the CITES. Before the MA may issue permits for foreign export of Appendix II species (such as American ginseng) taken from the wild, the MA must be satisfied that specimens were not obtained in violation of State or federal law, and the ESSA must advise the MA that the export will not be detrimental to the survival of the species (CITES, Article IV, paragraph 2). Although this notice refers to ESSA "approval" of export, the term indicates that the ESSA has no objection to issuance of export permits by the MA and in no way suggests limitation of the authority of the MA to withhold permits on other grounds. Note also that CITES certificates of artificial propagation are required for export of cultivated American ginseng, but that no CITES documentation is required for harvest, transport, or sale of wild or cultivated ginseng within the United States. However, harvest of wild American ginseng from public lands usually requires written permission from the administrating agency, and harvest, transport, and commerce in this species are subject to certain controls in many States.

The ESSA published an advance notice of proposed rulemaking in the April 30, 1979 **Federal Register** (44 FR 25383). This notice, in part, states generally what types of information the ESSA will need to make findings in favor of export of legally obtained specimens of American ginseng harvested in 1979.

The ESSA published a notice of proposed rulemaking in the June 1, 1979 **Federal Register** (44 FR 31857). In that notice the ESSA proposed to make export findings on a state-by-state basis, as we have done since 1977, and proposed standards for making export findings:

> The ESSA proposes to approve export of wild American ginseng from those states that have implemented substantial programs to conserve the species, whose populations can support the harvest. Acceptable conservation programs generally must include some form of research and regulation designed to monitor the status of the state's wild populations, to provide annual harvest estimates, and to control exploitation. The ESSA recognizes the recency of wild plant management in many states, and the frequent lack of management authority in state agencies. Consequently, we propose to approve export from certain states whose management agencies lack authority to limit exploitation provided those states have substantial plans for 1979 under existing authority, and provided available information indicates that populations of the state can support the harvest. Several state agencies are seeking additional authority from their legislatures. The ESSA wishes to be supportive of new state programs; however, our proposal to approve export for roots harvested in 1979 should not be construed as a precedent for approval in the future.

In a letter dated July 27, 1979, William C. Babham, Director, Iowa State Conservation Commission, supported the proposed standards.

Also in that notice the ESSA proposed to find in favor of export of roots harvested in 1979 in Wisconsin and Kentucky, and proposed as conditions that:

> Roots must be documented as to state of origin and season of collecting. Methods and procedures to be followed by the MA to ensure compliance with this condition must be provided to the ESSA on a state-by-state

basis prior to the final rulemaking addressing this species.

In a memorandum dated July 24, 1979, Richard M. Parsons, Chief, Federal Wildlife Permit Office, provided William Y. Brown, Executive Secretary, ESSA, with information concerning the current status of the State ginseng programs, a letter to ginseng exporters discussing certification of artificially cultivated ginseng, and a fact sheet and other materials provided ginseng exporters. The Management Authority is requiring the States to certify that roots to be exported from the States are legally obtained, and documented as to state of origin and season of collecting.

The rest of the comments received concern the status of American ginseng in the states the ESSA did not propose to find in favor of exports. Most of these comments were from state management agencies responsible for the conservation of this species. These comments are summarized in the following tables.

Tables: American Ginseng—The following tables summarize by state the information concerning American ginseng received by the ESSA. Only those states where the plant has been known to occur are listed. Many states have recently initiated programs to clarify the status of this species, to monitor its harvest, and to control its exploitation. Without such state programs it is doubtful that adequate information would be available to support approval of export by the ESSA.

This is particularly the case considering available information which suggests that harvest may be adversely impacting wild populations. The ESSA has received reports that there has been a large spring and summer harvest in some parts of the country. This practice results in the harvest of individual plants before they have an opportunity to reproduce. Generally, American ginseng does not fruit until mid-August or early September. Moreover, the ESSA has received information that recent harvests consist of roots that are smaller on the average than those harvested in the past, suggesting collectors are harvesting younger plants than they have harvested in the past. Such reports are accompanied by reports of record prices for wild root (e.g., "New York-Northern Pennsylvania last seasons collection usual average size 175.00 per lb.", United Fur Brokers *Market Bulletin*, July 25, 1979).

Descriptions of the table categories follow, along with explanations of abbreviations used. More detailed state-by-state summaries of comments are available from the ESSA.

State Classification

Most states have trespass statutes addressing the protection of private and public plant resources. At minimum these laws usually require oral permission from the land owner or administrator before the resources may be removed. Although these statutes may help conserve American ginseng, they were not considered in determining the state classifications. The state classifications are based on state statutes, regulatory authorities, or initiatives specifically concerned with American ginseng. State classifications are abbreviated as:

C = Conservation program: A state agency has implemented or has initiated a program to help conserve American ginseng even though the state agency has no express regulatory authority.

M = Management program: A state agency has regulatory authority to limit exploitation of American ginseng and has initiated a program to help conserve the species.

N = No conservation program: No state agency has been charged with the conservation of this species or has regulatory authority to limit exploitation.

Reported Harvest

All of the states approved for export in 1978 indicated that they would develop harvest estimates. Usually these estimates are based on voluntary or mandatory dealer reporting (VDR, MDR), or voluntary or mandatory collector reporting (VCR, MCR). In some cases these estimates are based on state export permits or certificates (SED). The reliability of such estimates of the harvest differs because of a variety of factors, including the methods used by the states in collecting the data.

Reported Export

ESSA's findings in favor of export of the 1978 harvest were made on the condition that the "Roots must be documented as to state of origin and season of collecting." The MA is responsible for ensuring compliance with any conditions on ESSA findings of no detriment. In addition, the CITES requires that "a Management Authority of the State of export is satisfied that the specimen(s) (were) not obtained in contravention of the laws of that State for the protection of fauna and flora" (Article IV, paragraph 2(b)). Export statistics compiled by the MA with respect to these responsibilities are based on documents submitted to USDA port officials by exporters prior to export. Before export permits are valid they must be stamped, signed and dated by a USDA agent. Export statistics included in the tables are based on exports recorded by the MA between September 1, 1978 and August 2, 1979. The reliability of these statistics is primarily determined by the degree of accurate reporting by collectors and dealers, the degree of compliance by exporters, the efficiency of reporting by USDA, and the methods and procedures used by the MA in ensuring compliance with trade controls.

As data and other relevant information become available, the ESSA will develop analyses on the reliability of harvest and export data, the relationship between harvest and export, and the effectiveness of trade controls. These analyses first will be conducted for harvest and export data for 1977 and 1978. Results of these analyses will be made available to the public, and will be considered in future findings by the ESSA.

State Population

A sampling of opinions concerning American ginseng's abundance and status in the states is provided in the tables. Few of these opinions are supported by data.

As discussed in our August 30, 1977 **Federal Register** notice (42 FR 43729), qualitative opinions concerning the plant's abundance and status must be viewed critically. Such terms as "endangered", "rare", and "stable" are often used imprecisely, without guidelines or criteria. In addition, the plant's status undoubtedly varies with local conditions, further complicating evaluation of its status and abundance.

In the tables, information concerning American ginseng's status and abundance is followed by brief explanations as to how those determinations were made. In some cases, no grounds for a qualitative opinion were given so no explanation is provided in the "How Determined" column. When available, grounds are stated with the following abbreviations.

B = Biologists' opinions: Either an opinion expressed by a biologist to the U.S. Fish and Wildlife Service or to the ESSA, or an opinion expressed by one or more biologists which was cited as basis for a state comment or a state endangered species list.

CC = Collectors comments: Comments from collectors received by the U.S. Fish and Wildlife Service or the ESSA.

FO = Field observations: Included when field observations were

specifically referred to as a basis for the determination.

HR = Herbarium records: Based on information recorded with herbarium specimens.

LS = Literature survey: Based on information in the literature.

SC = Survey of collectors: State survey of individuals who collect American ginseng in the State.

SD = Survey of dealers: State survey of dealers who purchase roots harvested in the state.

Findings and Conditions for the 1979 Season

The ESSA's findings and conditions concerning export of roots from the 1979 collecting season are given here. These findings and conditions are subject to change as further information is received. With respect to the ESSA's proposed condition that the MA provide the ESSA, prior to the ESSA's final finding, with the methods and procedures to be followed by the MA to ensure that roots are documented as to state of origin and season of collecting: The MA has negotiated procedures with the responsible state agencies and has conveyed the procedures to the ESSA (memorandum dated July 24, 1979). The MA has proposed to ensure compliance with the ESSA's condition through the requirement of various state export documents.

MA findings on whether the roots were legally obtained were conveyed in a memorandum dated August 2, 1979:

This is our final report on the Service's (U.S. Fish and Wildlife Service) implementation of CITES requirements towards the 1979 export of American ginseng.

Our review process involved an analysis of the involved State's ginseng management activities as well as how these activities would satisfy the Service that ginseng exported from these States was not obtained in violation of State law.

All involved States were contacted in May by mail and requested to notify us of their current ginseng management program as well as to provide us with a summary of how their 1978 program worked for them.

Some of the States neglected to supply the requested information and so we wrote to them a second time. In addition, in an attempt to solve problems, misunderstandings, or to obtain additional information, we also communicated with several States at least once by telephone.

Following a description of an attached chart, showing the review process, the memorandum continues:

Please be advised that the WPO (Wildlife Permit Office, U.S. Fish and Wildlife Service) will issue 1979 CITES ginseng export permits for the following States, if the ESSA makes a finding of no detriment. These State programs satisfied the WPO that, among other factors, any ginseng exported from the State would be legally taken:

Arkansas	Missouri (P)
Georgia	North Carolina
Illinois (P)	Ohio
Indiana (P)	Tennessee (P)
Iowa (P)	Virginia (P)
Kentucky (P)	West Virginia
Maryland	Wisconsin(P)
Minnesota	

(P) = Provisional Approval given to States with an apparently workable program but on a voluntary basis as there exist no current State regulations to legally enforce the program.

The WPO will not issue 1979 CITES ginseng export permits for the following States because the affected States apparently have no American ginseng management program, a major requisite for the export of the species:

Alabama	Mississippi
Connecticut	New Hampshire
Delaware	New Jersey
Louisiana	Pennsylvania*
Maine	South Carolina
Massachusetts	Vermont

(* — Export permits issued in 1978.)

Several States have developed a program of management and control of the plant but have had marginal cooperation from their State diggers and dealers in the commercial activities involving the species. Because of these problems, the Service can not be assured that the exported roots would be obtained legally, and, therefore, will not issue 1979 CITES ginseng export permits for the following States:

Michigan*
New York*
(* — Export permits issued in 1978.)

Because there were no 1978 findings for the following States, they were not contacted for their 1979 program:

Nebraska
Oklahoma
Rhode Island

(The memorandum also notes that the following information will be provided to affected states.)

"Also, please be advised that effective October 1, 1979, one condition of the CITES export document will be that each U.S. exporter maintain records of State certification that the ginseng, by weight, was artificially propagated. This means that any artificially propogated ginseng leaving your State must be certified by weight, just as wild ginseng is certified."

"* * * the term 'artificially propagated' shall be interpreted to refer only to plants grown by man from seeds, cuttings, callus tissue, spores or other propagules under controlled conditions. The artificially propagated stock must be (1) established and maintained in a manner not detrimental to the survival of the species in the wild, and (2) managed in a manner designed to maintain the artificially propagated stock indefinitely.

Controlled conditions for plants is under an environment that is intensively manipulated by man for the purpose of producing selected species. General characteristics of controlled conditions may include but are not limited to tillage, fertilization, weed control, irrigation, or nursery operations such as potting, bedding, or protection from weather."

ESSA's findings and conditions are abbreviated as:

A = Approved: ESSA approves export for roots legally obtained during the 1979 season. The ESSA considers that harvest in the state will not be detrimental to the survival of the species in that state. Roots must be documented as to state of origin and season of collecting. The Management Authority will issue export permits for wild American ginseng roots harvested in the state in 1979.

NEA = No export approved: Available information does not support an ESSA finding in favor of export of the 1979 harvest.

NF = No Finding: The Management Authority will not issue export permits for wild American ginseng harvested in the state in 1979. Therefore, no ESSA finding is necessary.

Comments

Other information relevant to the findings is given here.

Remarks

American ginseng is often protected on federal and state lands. Hypothetically, this protection should provide population reservoirs and serve as a buffer against overexploitation. Unfortunately, it appears that prohibitions against harvest on public lands are not generally observed, probably because of the difficulties in enforcing such prohibitions. In fact, in some areas of the country much of the harvest is reported to take place on public lands.

Considering the above, and considering the extensive American ginseng habitat available on national forests, the ESSA is specifically seeking the advice of the US Forest Service with respect to the biological status and the harvest of American ginseng on lands administered by that agency. In addition, the ESSA encourages the MA, pursuant to Executive Order 11911, to work with the US Forest Service to better ensure that the Forest Service's policies concerning harvest and the subsequent trade in this species complement ESSA's findings and the conservation initiatives of the states.

BILLING CODE 9310-55-M

American Ginseng

State	Classification	Harvest: Reported 1978 lbs.	Harvest: How Reported	Export Reported 9/1/78 to 8/2/79 (lbs)	State population estimates of abundance or status	How Determined	Findings	Comments
Alabama	C				Endangered[1] "Good numbers" in north.[2]	B	NF	The State has initiated a voluntary program to monitor the harvest.
Arkansas	M			700	Depleted but locally abundant.[3] Increased abundance and distribution.[4]	SC	A	The Arkansas Forestry Commission has initiated a program to better establish the species' status and to monitor and to manage its harvest.
Connecticut	N				Rare and local.[5] Endangered [6]	HR and FO HR and FO	NF	State comments for 1979 not received.
Delaware	N				Probably less frequent than in the past.[7]		NF	Species should be carefully monitored.[8]
Georgia	M	1,847	VDS	131	Endangered.[9] Not Endangered or Threatened.[10]	LS and B	A	The Georgia Department of Natural Resources has established a program to better establish the species' status and to monitor and manage its harvest.
Illinois	C			3,137	Rare[11] Decreasing[12] Threatened[13] Stable, or increasing or decreasing.	 SC and SD LS,HR, and B CC	A	The State has initiated a program to monitor the harvest through voluntary dealer reports, to educate collectors on proper harvest techniques, and to better establish the distribution of ginseng in Illinois.

American Ginseng

State	Classification	Harvest: Reported 1978 lbs.	Harvest: How Reported	Export Reported 9/1/78 to 8/2/79 (lbs)	State population estimates of abundance or status	How Determined	Findings	Comments
Indiana	C			6,699	Decreasing[14] Not rare[15] Stable or decreasing.	FO CC	NEA	The Indiana Department of Natural Resources has initiated a program to monitor the harvest through voluntary dealer reports, and to better establish the status of the plant in Indiana through surveys of lands administered by the Department. The Department does not have authority to control exploitation or to take additional steps to investigate status of the state's wild populations.
Iowa	C	7[16]	VOS	1,492	Stable, or increasing or decreasing.	CC	A	The Iowa Conservation Commission has established a program to monitor the harvest thorgh voluntary dealer reports, to promote proper harvest techniques and to better establish the species' status in the wild.
Kentucky	C	22,240	VOS	15,927	Increasing; not endangered[17] Threatened[18] Frequent to abundant, but decreasing[19] Endangered[20] Stable, or increasing, or decreasing.	 CC	A	Kentucky has initiated field surveys to better establish the species' status and has implemented a voluntary program to monitor and manage the harvest pending express legislative authority in 1980.
Louisiana	N				Rare and local and threatened to endangered.[21]	HR	NF	State comments for 1979 not received.

State	Classification	Harvest: Reported 1978 lbs.	Harvest: How Reported	Export Reported 9/1/78 to 8/2/79 (lbs)	State population estimates of abundance or status	How Determined	Findings	Comments
Maine	C				Depleted-14 stations have been documented.[22]	HR and FO	NF	State comments for 1979 not received.
Maryland	M	57	SED	8	Decreasing[23] Locally Common[24] Stable	Collector rcpts. CC	A	The Maryland Department of Agriculture has established a program to monitor and manage the harvest, and to better establish the species' status in the wild.
Massachusetts	N				Rare[18] Endangered or threatened[25] "Exceedingly rare and local"[26]	 HR	NF	No information available on annual harvest or on the status of wild populations.
Michigan	M			10	Threatened[27]	HR,FO, and B	NF	The Michigan Department of Natural Resources has established a program to monitor and manage the harvest,and to better establish the species' status in the wild; however, the monitoring system depends on mandatory collector reports which have not been forthcoming.
Minnesota	M	443[16]	VDR	633	Rare and endangered[18] "Species of Special Interest"[28] Stable	 CC	A	The Minnesota Department of Natural Resources has established a program to monitor and manage the harvest, and to better establish the species' status in the wild.

American Ginseng

State	Classification	Harvest Reported 1978 lbs.	Harvest How Reported	Export Reported 9/1/78 to 8/2/79 (lbs)	State population estimates of abundance or status	How Determined	Findings	Comments
Mississippi	N				Rare and endangered[29]	B	NF	State comments for 1979 not received.
Missouri	C	3,482	VDS	5,875	Not included in "Rare and Endangered Species of Missouri"[30] Stable	CC	A	The Missouri Department of Conservation has initiated a program to monitor the harvest through voluntary dealer reports, and to control exploitation through voluntary collecting and buying seasons. In addition, the State has developed a brochure to inform collectors of proper harvest techniques, and is conducting research to better establish the species' status in the wild.
Nebraska	N				Occurs in three eastern counties.[31]	HR	NEA	State Comments for 1979 not received.
New Hampshire	N				Rare and endangered.[32]	LS,HR and FO	NF	State comments for 1979 not received.
New Jersey	N				Rare[33]	LS and B	NF	Available information suggests that American ginseng is rare in New Jersey and is not harvested.

American Ginseng

State	Classification	Harvest: Reported 1978 lbs.	Harvest: How Reported	Export Reported 9/1/78 to 8/2/79 (lbs)	State population estimates of abundance or status	How Determined	Findings	Comments
New York	M	366	MDR	510	Decreasing and protected[34]	FO	NF	The New York Department of Environmental Conservation has established a program to monitor the harvest through voluntary dealer reports, and to a limited extent, to control exploitation. However, dealer compliance has been lax.
					Increasing, or decreasing	CC		
North Carolina	M	3,120 2,800 (Dealer purchases through March 1979 are only slightly higher.)	MDR SED	7,965	Threatened[35]	B	A	The North Carolina Department of Agriculture has established a program to monitor and manage the harvest, and to better establish the species' status in the wild.
					Stable[36]			
					Decreasing[37]	Survey of Foresters		
					Increasing[37]			
					Decreasing and threatened[38]			
					Threatened[39]			
					Increasing or decreasing	CC		
Ohio	M				Rare and endangered[40]	LS	A	The Ohio Department of Natural Resources has initiated a program to monitor and manage the harvest, and to better establish the species' status in the wild.
					Locally common but decreasing[41]			
					Stable to decreasing[42]	B		
					Stable	CC		
Oklahoma	N				Extremely rare[43]	HR	NEA	State comments for 1979 not received.
					Rare[44]			
Pennsylvania	N			3,665	Stable[45]		NF	The Pennsylvania Department of Environmental Resources believes that American ginseng is not endangered or threatened, but is vulnerable to uncontrolled harvest. The Department expects authority to manage the species in 1979.
					Rare in western Pennsylvania[46]			
					Rare in Perry county, Pennsylvania[47]	FO		
					Rare in southeastern Pennsylvania[48]			
					Not endangered or threatened[49]	Because of harvest technique		
					Decreasing[50]			
					Decreasing in Northhampton County, Pennsylvania[51]			
					Stable or increasing	CC		

American Ginseng

State	Classification	Harvest Reported 1978 lbs.	Harvest How Reported	Export Reported 9/1/78 to 8/2/79 (lbs)	State population estimates of abundance or status	How Determined	Findings	Comments
Rhode Island	N				Possibly extirpated[52]	Unpublished literature and FO.	NEA	State comments for 1979 not received.
South Carolina	N				Threatened[53]	B	NF	The State has no program to conserve wild plants.
					Endangered[54]	FO		
					Endangered[55]			
					Decreasing and Threatened[56]	FO		
Tennessee	C	5,406	VDR	7,002	Rare[57]		A	The Tennessee Department of Conservation has initiated a program to monitor the harvest through voluntary dealer surveys and to control exploitation by promoting a voluntary season and proper harvest techniques. In addition, the Department is funding research to better establish the species' status in the wild.
					Rare[18]			
					Threatened[58]	HR and B		
					Decreasing[59]	HR and FO		
					Threatened[60]	B and other individuals familiar with the plant.		
					Stable or increasing or decreasing	CC		
Vermont	N				Decreasing[61]		NF	State comments for 1979 not received.
Virginia	M	5,512	SED	8,674	"Endangered in only a few localities if at all."[62]		A	The Virginia Department of Agriculture and Consumer Services has established a program to better establish the species' status in the wild and to monitor and manage its harvest.
					Endangered[63]			
					Endangered[64]			
					Stable	CC		

State	Classification	Harvest: Reported 1978 lbs.	Harvest: How Reported	Reported 9/1/78 to 8/2/79 (lbs)	estimates of abundance or status	How Determined	Findings	Comments
West Virginia	M	10,110	MDR	12,644	Rare to frequent in occurence in different counties, not endangered[65] Fairly common.[66] Stable or increasing	 CC	A	The West Virginia Department of Natural Resources has established a program to monitor the harvest and to control exploitation, and anticipates initiating field surveys and population studies to better establish the species' status in the wild.
Wisconsin	M	2,404	VDR	7,363	Threatened[67] Declined but "still occurs in harvestable quantity"[16] Rare[68] Decline in population size. Population consists of younger plants[69] Stable	HR,LS and FO CC CC	A	The Wisconsin Department of Natural Resources has established a program to better establish the species' status in the wild and to monitor and manage its harvest. Additional regulatory authority is expected in 1979.

BILLING CODE 9310-55-C

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47. Letter dated August 25, 1977 from J. Adams, Morris Arboretum.

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Proposed Regulations Promulgation

Accordingly, new Annex A is added to 50 CFR Part 810 to read as follows (1978 findings are taken from the present Annex to Part 810):

Annex A—American ginseng: State populations for which the ESSA has

found that export of the indicated season's harvest will not be detrimental to the survival of the species.

1978 Harvest: Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state of origin and season of collecting.

For further information see: 43 FR 29469, July 7, 1978; 43 FR 35013, August 7, 1978; 43 FR 36293, August 16, 1978; and 43 FR 39305, September 1, 1978.

1979 Harvest: Arkansas, Georgia, Illinois, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state of origin and season of collecting. For further information see: 44 FR 25384, April 30, 1979; 44 FR 3107, June 1, 1979; and 44 FR 47902, August 15, 1979.

Dated: August 10, 1979.

William Y. Brown,

Executive Secretary.

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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 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

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

Rules Going Into Effect Today

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

38834 7–3–79 / Rate schedules and tariffs; blanket affidavit and collection filings; protest procedures

FEDERAL COMMUNICATIONS COMMISSION

32383 6–6–79 / Bridge-to-bridge operations in the Southern Louisiana section of the Mississippi River system; extension of effective date [Originally published at 44 FR 29073; 5–18–79]

FEDERAL MARITIME COMMISSION

40516 7–11–79 / Practice and procedure; fees for service

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Health Care Financing Administration—

41434 7–17–79 / State residence requirements; eligibility in the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands

SECURITIES AND EXCHANGE COMMISSION

41176 7–16–79 / Environmental protection procedures

TRANSPORTATION DEPARTMENT

Materials Transportation Bureau—

57857 12–11–78 / Provisions for blasting agents

Next Week's Deadlines for Comments on Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

44517 7–30–79 / Milk in the Greater Kansas City Marketing Area; comments by 8–20–79

44523 7–30–79 / Milk in the Nebraska-Western Iowa Marketing Area; comments by 8–20–79

Animal and Plant Health Inspection Service—

36397 6–22–79 / Deletion of certain ports designated for the importation of animals; comments by 8–21–79

Commodity Credit Corporation—

36987 6–25–79 / Loan and purchase program, milk; comments by 8–20–79

Office of the Secretary—

42998 7–23–79 / Administrative procedures for adjustments of natural gas curtailment priority regulations; comments by 8–22–79

COMMERCE DEPARTMENT

Maritime Administration—

37003 6–25–79 / Operating-differential subsidy applications; hearing procedures; comments by 8–24–79

National Oceanic and Atmospheric Administration—

42709 7–20–79 / Guidelines for Sea Grant Colleges and Regional Consortia; comments by 8–20–79

DEFENSE DEPARTMENT

Engineers Corps—

41246 7–16–79 / Water control management activities for Corps and non-Corps projects; policy, procedures and guidance; comments by 8–20–79

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

38857 7–3–79 / Implementation of second stage incremental pricing provisions of Natural Gas Policy Act of 1978; comments by 8–20–79

ENVIRONMENTAL PROTECTION AGENCY

36206 6–21–79 / Air pollution control; California plan; comments by 8–20–79

42242 7–19–79 / Air quality implementation plans: Alabama; comments by 8–20–79

42726 7–20–79 / Alaska; State Implementation Plan revision; comments by 8–20–79

43302 7–24–79 / Approval and promulgation of implementation plans; Tennessee proposed 1979 plan revisions; comments by 8–23–79

42726 7–20–79 / Colorado; air quality control region; attainment status; comments by 8–20–79

43306 7–24–79 / Proposed revision of the Pennsylvania State implementation plan; comments by 8–23–79

ENVIRONMENTAL PROTECTION AGENCY

42722 7–20–79 / Requirements for preparation, adoption, and submittal of implementation plans; approval and promulgation of State implementation plans; prevention of significant air quality deterioration; comments by 8–20–79

35265 6–19–79 / Review of standards of performance for nitric acid plants; comments by 8–20–79

35953 6–19–79 / Review of standards of performance for secondary brass and bronze ingot production plants; comments by 8–20–79

43490 7–25–79 / Revision of Delaware State Implementation Plan; comments by 8–24–79

35288 6–19–79 / Underground injection control; list of State required program; comments by 8–20–79

FEDERAL COMMUNICATIONS COMMISSION

36082 6–20–79 / Exempting vessels operating in vessel traffic service areas from the requirement to maintain a listening watch; comments by 8–21–79

32419 6–6–79 / FM broadcast station in Brush, Colo.; changes in table of assignments; reply comments by 8–20–79

38917 7–3–79 / FM broadcast station in Homosassa Springs, Fla.; comments by 8–21–79

37518 6–27–79 / FM broadcast station in Mountain Home, Ark., proposed changes in table of assignments; comments by 8–20–79

43322 7–24–79 / Geographic sharing of certain frequencies in the petroleum, forest products, special industrial, and manufacturers radio services; comments by 8–20–79

30135 5–24–79 / Land mobile radio systems; multiple licensing; comments by 8–21–79

36209 6–21–79 / Narrow-band, multi-channel fixed stations; secondary use of base/mobile frequencies; comments by 8–21–79

33439 6–11–79 / Proposed changes in assignments for FM broadcast station in East Wenactchee, Wash.; reply comments by 8–20–79

33440 6–11–79 / Proposed changes in assignments for FM broadcast station in Osage, Kansas; reply comments by 8–20–79

34170 6–14–79 / Television broadcast station in Oklahoma City, Okla.; change in table of assignments; reply comments by 8–20–79

FARM CREDIT ADMINISTRATION

36193 6–21–79 / Farm credit system; lending operations; comments by 8–19–79

FEDERAL HOME LOAN BANK BOARD

36057 6–20–79 / Branching of Federal Associations; comments by 8–20–79

36055 6–20–79 / Collateralization of bank advances; comments by 8–20–79

36398 6–22–79 / Federal home loan bank system and Federal savings and loan system; proposed reduction in reporting requirements; comments by 8–20–79

36056 6–20–79 / Loans in excess of 80 percent of value; three and four family dwellings; comments by 8–20–79

36064 6–20–79 / Transfers; transactions with affiliated people; comments by 8–20–79

FEDERAL RESERVE SYSTEM

36398 6–22–79 / Equal credit opportunity; comments extended to 8–20–79 [Originally published at 44 FR 23865, April 23, 1979]

38543 7–2–79 / Securities of member State bank; comments by 8–22–79

FEDERAL TRADE COMMISSION

37957 6–29–79 / Forbes Health System Medical Staff; consent agreement with analysis; comments by 8–24–79

42712 7–20–79 / Procedures for implementation of the National Environmental Policy Act of 1969; comments by 8–20–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

37170 6–25–79 / Biomedical Sciences Program; comments by 8–24–79

36908 6–22–79 / Ethnic heritage studies program; comments by 8–21–79

37134 6–25–79 / Gifted and talented children's education program; comments by 8–24–79

37164 6–25–79 / Indochina Refugee Children Assistance Program; comments by 8–24–79

37178 6–25–79 / National Diffusion Network Program; comments by 8–24–79

37184 6–25–79 / Youth Employment Program; comments by 8–24–79

Food and Drug Administration—

36411 6–22–79 / Lakes of color additives; intent to list; comments by 8–21–79

35295 6–19–79 / Spironolactone; drug efficacy study implementation, supplements by 8–20–79

36417 6–22–79 / Whey, whey products, and hydrogen peroxide; affirmation of GRAS status as direct human food ingredients; comments by 8–21–79

Public Health Service—

36864 6–22–79 / Health maintenance organizations; requirements; comments by 8–21–79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

36698 6–22–79 / Amendment of schedule B; Fair Market Rents, Section 8 existing housing and Section 23 existing housing; comments by 8–23–79

INTERSTATE COMMERCE COMMISSION

43325 7–24–79 / Household goods transportation [Storage-in-transit charges]; comments extended to 8–23–79 [Originally published at 44 FR 30387, May 25, 1979]

42737 7–20–79 / Specified air terminal zones; motor carrier operations; comments by 8–20–79

39558 7–6–79 / Tariff integrity board; proposed expedited method; comments by 8–20–79

JUSTICE DEPARTMENT

Immigration and Naturalization Service—

36187 6–21–79 / Eligibility of persons for relief or benefits; factors to be considered; administrative discretion; comments by 8–20–79

36193 6–21–79 / Voluntary departure of aliens prior to hearings; discretionary criteria; comments by 8–20–79

LABOR DEPARTMENT

Pension and Welfare Benefit Programs—

33708 6–12–79 / Exemption from reporting and disclosure requirements affecting apprenticeship and other training plans; comments by 8–21–79

36862 6-22-79 / Limited relief from reporting, disclosure, and claims procedure requirements with respect to welfare plans offering membership in a qualified health maintenance organization as a benefit; comments by 8-21-79

36432 6-22-79 / Rules and regulations for reporting and disclosure; comments by 8-21-79

MERIT SYSTEMS PROTECTION BOARD

44857 7-31-79 / Federal employees; reduction in grade and removal based on unacceptable performance; comments by 8-24-79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

36024 6-20-79 / Astronaut candidate recruitment and selection program; comments by 8-20-79

PERSONNEL MANAGEMENT OFFICE

35230 6-19-79 / Deletion of one-year limitation on "restoration to duty" requirement; comments by 8-20-79

POSTAL SERVICE

44893 7-31-79 / International express mail rates; rates to Bermuda; comments by 8-22-79

44895 7-31-79 / Preparation of bulk mailings; comments by 8-20-79

SECURITIES AND EXCHANGE COMMISSION

39197 7-5-79 / Confidential treatment of names and addresses of dealers of registered investment companies; comments by 8-20-79

SMALL BUSINESS ADMINISTRATION

36195 6-21-79 / Small business size standards, increase; assistance by small business investment companies or development companies; comments by 8-20-79

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

43003 7-23-79 / Extension of Victor Airway; comments by 8-22-79

31197 5-31-79 / Summary of petitions received and dispositions of petitions denied; comments by 8-24-79

Federal Railroad Administration—

36338 6-21-79 / Nondiscrimination in federally assisted railroad programs; minority business enterprise; comments by 8-20-79

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau—

29691 5-22-79 / Recodification of wine regulations; comments by 8-20-79

Next Weeks Meetings:

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

34856 6-15-79 / Foreign quarantine notices, Baltimore, Md., 8-21 and 8-22-79

Forest Service—

44199 7-27-79 / Uinta National Forest Grazing Advisory Board, Provo, Utah (open), 8-23-79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

45271 8-1-79 / Expansion Arts Panel, Washington, D.C. (open), 8-22 through 8-24-79

44983 7-31-79 / Folk Arts Advisory Panel, Washington, D.C. (partially open), 8-24 and 8-25-79

45493 8-2-79 / Humanities Panel, Washington, D.C. (closed), 8-20-79

45493 8-2-79 / Humanities Panel, Washington, D.C. (closed), 8-20 and 8-22 through 8-25-79

42344 7-19-79 / Humanities Panel, Washington, D.C. (closed), 8-21 and 8-22-79

46005 8-6-79 / Humanities Panel Washington, D.C. (closed), 8-24 and 8-30-79

44307 7-27-79 / Visual Arts Advisory Panel, Washington, D.C. (closed), 8-22 through 8-24-79

CIVIL RIGHTS COMMISSION

45231 8-1-79 / Arkansas Advisory Committee, Little Rock, Ark. (open), 8-25-79

43501 7-25-79 / New York Advisory Committee, New York, N.Y. (open), 8-23-79

COMMERCE DEPARTMENT

Industry and Trade Administration—

44205 7-27-79 / Management-Labor Textile Advisory Committee, Washington, D.C. (open), 8-23-79

National Bureau of Standards—

44205 7-27-79 / International Legal Metrology Advisory Committee, Gaithersburg, Md. (open), 8-21-79

National Oceanic and Atmospheric Administration—

46309 8-7-79 / North Pacific Fishery Management Council, Scientific and Statistical Committee, and Advisory Panel, Anchorage, Alaska (open), 8-22 through 8-24-79

DEFENSE DEPARTMENT

Air Force Department—

45237 8-1-79 / USAF Scientific Advisory Board, Norfolk, Va. (closed), 8-20 through 8-24-79

Army Department—

45661 8-3-79 / U.S. Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Chemical Warfare Agent Antidotes, Washington, D.C. (closed), 8-21-79

Navy Department—

45436 8-2-79 / Naval Air Station, Fallon, Nev., meeting on environmental impact statement, Fallon, Nev. (open), 8-20-79

Office of the Secretary—

41908 7-18-79 / Defense Intelligence Agency Advisory Committee, Albuquerque, N. Mex. (closed), 8-20 and 8-21-79

43331 7-24-79 / Electron Devices Advisory Group, New York, N.Y. (closed), 8-22-79

36222 6-21-79 / Wage Committee, Washington, D.C. (partially open), 8-21-79

ENVIRONMENTAL PROTECTION AGENCY

45752 8-3-79 / Science Advisory Board, Environmental Pollutant Movement and Transformation Committee, Oklahoma City, Okla. (open), 8-21 through 8-23-79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

42779 7-20-79 / Meeting, Washington, D.C. (open) 8-23-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Disease Control Center—

46316 8-7-79 / Preliminary planning for American Group Providers of Occupational Safety and Health Services; self-contained breathing apparatus course curriculum, Washington, D.C., 8-24-79

[Rescheduled at 44 FR 47617, 8-14-79]

Education Office—

38154 6-29-79 / Indian Education Act; Davis, Calif., Seattle, Wash., and Anchorage, Alaska, (open), 8-20 and 8-22-79

46317 8-7-79 / National Advisory Council on the Education of Disadvantaged Children, Los Angeles, Calif. (open), 8-23 through 8-25-79

38184 6-29-79 / School assistance in areas affected by Federal activity and cases of certain disasters, San Juan, Puerto Rico (open), 8-21-79

Food and Drug Administration—

41548 7-17-79 / Ad Hoc Subcommittee of the Drug Abuse Advisory Committee to study the "Effects of Scheduling, Rockville, Md. (open) 8-24 and 8-25-79

36479 6-22-79 / Committee to Study the Human Health Effects of Subtherapeutic Antibiotic use in Animal Feeds, Washington, D.C. (open), 8-23-79

Health Resources Administration—

33742 6-12-79 / National Advisory Council on Nurse Training, Hyattsville, Md. (partially open), 8-21 through 8-23-79

National Institutes of Health—

44949 7-31-79 / Biometry and epidemiology contract review committee, Bethesda, Md. (open), 8-20-79

41965 7-18-79 / Environmental Health Sciences National Advisory Council, Bethesda, Md. (partially open), 8-20-79

41965 7-18-79 / National Advisory Council on Aging, Bethesda, Md. (partially open), 8-24-79

Office of Human Development Services—

45258 8-1-79 / White House Conference on Handicapped Individuals; National Implementation Advisory Committee, Arlington, Va. (open), 8-22 through 8-24-79

Office of the Secretary—

44950 7-31-79 / Secretary's Advisory Committee on the Rights and Responsibilities of Women, Washington, D.C. (open), 8-23 and 8-24-79

INTERIOR DEPARTMENT

Land Management Bureau—

45269 8-1-79 / Coal Slurry Pipeline; public scoping, Denver, Colo., Ponca City and Pryor, Okla., and Little Rock, Ark. (open), 8-21 through 8-23-79

40564 7-11-79 / Miles City District Grazing Advisory Board; Miles City, Montana (open), 8-22-79

National Park Service—

43821 7-26-79 / Cape Cod National Seashore Advisory Commission, Provincetown, Mass. (open), 8-24-79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41975 7-18-79 / NASA Advisory Council, Moffett Field, Calif. (open), 8-15 through 8-17-79

46005 8-6-79 / Space Science Steering Committee, Venus Orbiting Imaging Radar Ad Hoc Advisory Subcommittee, Greenbelt, Md. (closed), 8-22, 8-23, and 8-24-79

NATIONAL SCIENCE FOUNDATION

45494 8-2-79 / Ocean Sciences Advisory Committee, Ocean Sciences Research Subcommittee, Washington, D.C. (closed), 8-20 through 8-23-79

NUCLEAR REGULATORY COMMISSION

46370 8-7-79 / Advisory Committee on Reactor Safeguards Subcommittee on Combination of Dynamic Loads, San Francisco, Calif. (open), 8-22-79

45272 8-1-79 / Implementation of emergency planning requirements for commercial nuclear power reactors, various cities in Pennsylvania, Illinois, Nevada and Georgia (open), 8-20 through 8-22 and 8-24-79

43822 7-26-79 / Reactor Safeguards Advisory Committee, Combination of Dynamic Loads, San Francisco, Calif. (open) 8-22-79

PENSION POLICY, PRESIDENT'S COMMISSION

42831 7-20-79 / Study Group on Present and Future Income Needs of Retired and Disabled Population, Washington, D.C. (open), 8-21-79

STATE DEPARTMENT

Office of the Secretary—

45006 7-31-79 / Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 8-21 and 8-22-79

45815 8-3-79 / Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 8-24-79

46013 8-6-79 / U.S. Organization for the International Telegraph and Telephone Consultative Committee, Study Group 2, Washington, D.C. (open), 8-23-79

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

45511 8-2-79 / Radio Technical Commission for Aeronautics, Special Committee 139, Washington, D.C. (open), 8-20 through 8-22-79 [Originally published at 44 FR 42364, 7-19-79]

UNEMPLOYMENT COMPENSATION, NATIONAL COMMISSION

43364 7-24-79 / New York, N.Y. (open), 8-23 through 8-25-79

VETERANS ADMINISTRATION

45012 7-31-79 / Station Committee on Educational Allowances, Denver, Colo., 8-24-79

45282 8-1-79 / Station committee on educational allowances, Nashville, Tenn. (open) 8-24-79

33757 6-12-79 / Veterans Administration Wage Committee, Washington, D.C. (closed), 8-23-79

Next Week's Public Hearings

ENERGY DEPARTMENT

42755 7-20-79 / Motor fuel marketing subsidation; title III of Petroleum Marketing Practices Act, Fort Wayne, Ind., 8-21-79

42094 7-18-79 / Urban wastes demonstration facilities guarantee program, Washington, D.C., 8-21-79

ENVIRONMENTAL PROTECTION AGENCY

41837 7-18-79 / Control of air pollution from aircraft engines; exemptions from aircraft emission standards, Washington, D.C., 8-22-79

43152 7-23-79 / Stationary internal combustion engines; standards of performance for new stationary sources, Triangle Park, N.C., 8-22-79

INTERIOR DEPARTMENT

Office of the Secretary—

40942 7-13-79 / Intermountain Power Project power plant, Los Angeles, Calif., 8-20-79

40942 7-13-79 / Intermountain Power Project power plant, Victorville, Calif., 8-21-79

TRANSPORTATION DEPARTMENT

Coast Guard—

34440 6-14-79 / Proposed design standards for tank barges to prevent oil pollution, New Orleans, La., 8-23-79

UNEMPLOYMENT COMPENSATION, NATIONAL COMMISSION

40983 7-13-79 / Basic Structure of a Federal-State unemployment insurance program, New York, N.Y., 8-23 through 8-25-79

List of Public Laws

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

Last Listing August 13, 1979

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the Federal Register during the previous week.

DEADLINES FOR COMMENTS ON PROPOSED RULES

46858 8–9–79 / DOT/FAA—Airport aid program; airport development and planning grant projects; comments by 10–9–79

46836 8–9–79 / HUD/CPD—Community development block grants; households who could reasonably be expected to reside; comments by 10–9–79

47018 8–9–79 / Interior/HCRS—Urban park and recreation recovery; grant procedure regulations; comments by 10–9–79

APPLICATIONS DEADLINES

46949 8–9–79 / HEW/HRA—Graduate Training in Family Medicine; applications, by 9–4–79

46949 8–9–79 / HEW/HRA—Health Careers Opportunity Program; applications by 1–4–80

47164 8–10–79 / HEW/OE—Basic educational opportunity grant program; apply by 9–30–79

46947 8–9–79 / HEW/OE—Emergency School Aid Act; applications by 9–14–79

45999 8–6–79 / HEW/OE—Field initiated research, closing date for transmittal of applications for Fiscal Year 1980; apply by 10–31–79

46000 8–6–79 / HEW/OE—Handicapped Personnel Preparation, availability of funds; apply by 9–17–79 for non-competing awards, and 10–15–79 for new awards

46000 8–6–79 / HEW/OE—Student Research, availability of funds; apply by 10–12–79 for first funds, and 3–17–80 for second funds

47126 8–10–79 / USDA/REA—Development of a direct buried field splice closure system for buried telephone cable; apply by 8–20–79

MEETINGS

46005 8–6–79 / NFAH—Humanities Panel Advisory Committee, Washington, D.C. (closed), 8–24 and 8–30–79

46542 8–8–79 / NFAH—National Council on the Humanities, Washington, D.C. (open), 8–15–79, session times changed

46542 8–8–79 / NFAH—Visual Arts Advisory Panel, Washington, D.C. (closed), 8–23 and 8–24–79

OTHER ITEMS OF INTEREST

46712 8–8–79 / Commerce/NTIA—Grants for planning and construction of public telecommunications facilities; list of applications accepted for filing

46535 8–8–79 / HEW—Health Care Technology Study Section; renewal

45947 8–6–79 / HEW/HDSO—University Affiliated Facilities Program; comments by 10–5–79