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federal register

Book 1 of 2 Books
Friday, September 7, 1979

Highlights

Briefings on How to Use the Federal Register—For details on briefings in **Washington, D.C.**, and **Long Island, New York**, see announcement in the Reader Aids Section at the end of this issue.

Principles of Regulations Writing Seminar—See the Reader Aids section at the end of this issue.

52159 **National Grandparents Day** Presidential proclamation

52632 **Energy Conservation** DOE amends test procedures for water heaters; effective 10–9–79 (Part V of this issue)

52646, 52661 **Small Community Air Service Program** CAB adopts guidelines for determining essential air service; effective 9–7–79 (Part VII of this issue) (2 documents)

52283 **Construction Contractors** Labor/FCCPO proposes rules to clarify affirmative action requirements; comments by 11–6–79

52348 **Construction Industry** Labor/FCCPO proposes goals and timetables for minority participation; comments by 11–6–79

52258 **Surface Construction** Labor/MSHA proposes rules which deal with safety and health standards for surface of mine property; comments by 10–22–79

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52196 **Black Lung Trusts** Treasury/IRS issues rules dealing with payment of benefits and certain excise taxes; effective for taxable years after 12–31–77

52246 **Interstate, Overseas and Foreign Air Transportation** CAB proposes to establish service mail rate zones; comments by 10–22–79, reply comments by 11–6–79

52170 **Mandatory Petroleum Allocation** DOE/ERA adopts rule and announces hearing to extend entitlement benefits for middle distillate imports; effective for period 9–1–79 through 10–31–79, hearing 9–25–79, requests to speak by 9–17–79

52179 **Natural Gas** DOE/FERC amends and makes final certain interim rules concerning the transportation by interstate pipelines on behalf of intrastate pipelines and local distribution companies; effective 10–1–79

52253 **Natural Gas** DOE/FERC proposes rules regarding the high cost of gas produced from tight formations; comments by 10–15–79, hearings 9–24 and 9–27–79

52582 **National Monuments, Preserves and Primitive Areas** Interior/Sec'y issues a review for Class I redesignation recommendation (Part III of this issue)

52642 **Municipal Waste** DOE/Conservation and Solar Applications Office issues an advance notice of proposed rulemaking to promulgate rules establishing policies and procedures to implement a Federal price support program for reprocessing demonstration facilities; comments by 11–6–79 (Part VI of this issue)

52590 **Electroplating Point Source Category** EPA issues rules regarding pretreatment standards for existing sources; effective 10–9–79 (Part IV of this issue)

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Title 3—

The President

Proclamation 4679 of September 6, 1979

National Grandparents Day

By the President of the United States of America

A Proclamation

As we seek to strengthen the enduring values of the family, it is appropriate that we honor our grandparents.

Grandparents are our continuing tie to the near-past, to the events and beliefs and experiences that so strongly affect our lives and the world around us. Whether they are our own or surrogate grandparents who fill some of the gaps in our mobile society, our senior generation also provides our society a link to our national heritage and traditions.

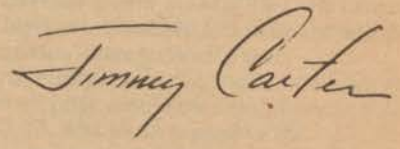
We all know grandparents whose values transcend passing fads and pressures, and who possess the wisdom of distilled pain and joy. Because they are usually free to love and guide and befriend the young without having to take daily responsibility for them, they can often reach out past pride and fear of failure and close the space between generations.

The Congress, by joint resolution (H.J. Res. 244), has authorized and requested the President to designate the first Sunday of September following Labor Day of each year as National Grandparents Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Sunday, September 9, 1979 and the first Sunday following Labor Day in each succeeding year as "National Grandparents Day."

I urge officials of Government at the national, State, and local levels, and of voluntary organizations to plan appropriate activities that recognize the importance and the worth of the 17 million grandparents in our nation. I urge all Americans to take the time to honor their own grandparents or those in their community.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of September, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.



[FR Doc. 79-28208

Rules and Regulations

Federal Register
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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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 540

Merit Pay System

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These regulations implement the provisions of Title V of the Civil Service Reform Act of 1978, which establish a Merit Pay System for supervisors and management officials in positions classified in GS–13, 14, and 15. The Merit Pay System is intended to recognize and reward quality performance by merit pay increases in varying amounts. The Merit Pay System will be fully implemented in October 1981, although agencies may implement the System in whole or in part in October 1980.

DATE: These regulations are effective on September 7, 1979, although, in accordance with § 540.110 of the regulations, the Merit Pay System will not become operational before October 1980.

FOR FURTHER INFORMATION CONTACT: Barbara Fiss, (202)254–8960.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management is publishing regulations to supplement and implement the Merit Pay System established by Title V of the Civil Service Reform Act of 1978, Pub. L. 95–454. Proposed regulations were published in the **Federal Register** on April 20, 1979 (44 FR 23530–23533). Substantial editorial revisions have been made in the regulations, in order to simplify and clarify them, and a number of substantive changes have also been made.

In addition to the regulations in Part 540, a number of other regulations concerning the Merit Pay System will be added to 5 CFR Chapter I in the future, dealing with the relationship of the Merit Pay System to various other provisions of law and regulation.

Analysis of Comments. The proposed regulations provided a 60-day period for public comment. The Office of Personnel Management received comments from 23 agencies, two labor organizations, three employee associations, and six individuals. Most of the comments offered specific recommendations for clarifying or modifying specific provisions of the proposed regulations. As a result, the Office has modified the final regulations, as discussed below. The Office will also supplement the regulations with guidance issued through the Federal Personnel Manual System which will address certain other concerns expressed during the public comment period.

(1) General. Editorial revisions have been made to § 540.101.

(2) Ranges of basic pay and employee coverage. Six comments expressed concern over the apparent prohibition on the use of "asterisked rates" and special rate ranges for merit pay employees. These limitations were illustrated with the reference to actual "GM" rates in the proposed regulations. The Office of Personnel Management has determined that the use of "asterisked rates" for merit pay employees in the same manner as they are used for General Schedule employees is legally permissible and consistent with congressional intent. Thus, merit pay employees could receive a "paper" adjustment if their base pay exceeded the Executive Schedule Level V ceiling (currently $47,500) by virtue of a salary increase due to the granting of the automatic portion of comparability or a merit pay determination. In regard to the special rate ranges, two commenters recommended specifying that special rate ranges are covered under the Merit Pay System. The final regulations in § 540.102 clarify that the Merit Pay System does include special rate ranges for positions covered by special rate authorizations. In relation to this issue, one commenter also recommended that the range of annual rates of basic pay for merit pay employees not be printed in the regulations, but instead, the regulations should clarify that the pay ranges are the same as the corresponding General Schedule grades. This change was incorporated in § 540.102. Finally, five commenters questioned the legality of using "GM" instead of "GS" as the pay plan code for the Merit Pay System. After restudy of the issue, the office confirms that the Merit Pay System is a separate pay system and, accordingly, that the use of "GM" as the pay plan code for the Merit Pay System is both legally permissible and necessary for identifying merit pay employees and evaluating the effectiveness of the Merit Pay System and cash award program. Forthcoming guidance in the Federal Personnel manual will provide additional information on the use of the "GM" pay plan code.

Three commenters requested clarification and expansion of the definitions of supervisor and management official. Since these definitions are contained in law, the Office of Personnel Management cannot alter or expand upon their basic meaning in regulation. However, the Office will continue to publish guidance from time to time to assist agencies in identifying merit pay employees.

One commenter recommended that coverage under the Merit Pay System be reviewed in the agency only in accordance with such procedures as the agency may prescribe, provided that the review is conducted by an official or officials other than the one who made the original coverage determination. Another commenter recommended that an appeal of coverage determinations to the Merit Systems Protection Board be provided. As the Office has indicated in previous guidance (Federal Personnel Manual (FPM) Bulletin 540–1, Attachment 3), the head of each agency has the authority for identifying employees who are supervisors or management officials for purposes of coverage under the Merit Pay System. However, § 540.102 has been modified to provide clear authority and responsibility to the head of an agency to identify merit pay employees in GS–13, 14, and 15. In regard to the recommendation for specific regulatory language on agency reviews of Merit Pay System employee coverage, Part 771 of Title 5, Code of Federal Regulations (CFR), Agency Grievance System, allows employees to grieve "any matter of concern or dissatisfaction to an employee which is subject to the control of agency management or any matter in which an employee alleges that coercion, reprisal, or retaliation has been practiced against him or her."

Since merit pay employee coverage determinations are not among the items specifically excluded from grievance coverage, employees may grieve coverage or non-coverage under the Merit Pay System within their agency. Therefore, it would be redundant and confusing to provide for similar agency review procedures in the final merit pay regulations. The Office believes that the existing agency administrative grievance system procedures afford employees sufficient recourse in questioning their coverage under or exclusion from the Merit Pay System.

Finally, two commenters suggested that the Office exclude temporary employees, probationary employees and employees on details from the Merit Pay System. Employees on detail to merit pay positions are not included because they do not officially occupy a merit pay position. Merit pay employees on detail to another position continue to be covered by the Merit Pay System. 5 U.S.C. 5401 allows the President to exclude an agency or any unit of an agency from the Merit Pay System, but does not allow exclusion of individual employees for any reason, including appointment, career status, occupation, etc. Therefore, the suggestions for employee exclusions could not be adopted.

(3) Determination and allocation of merit pay funds. In the proposed regulations, a standard formula for uniform Government-wide use by all agencies was established as the basis for determining the amount of funds available for merit pay purposes. Five agencies disagreed with the Government-wide approach while one agency supported this approach. A detailed analysis by the Office revealed such variation among agencies in the distribution of employees among step rates, and in the use of quality step increases, that the uniform approach would produce funds in amounts bearing little relationship to what would have been paid out by agencies under the General Schedule step system. As a result, the office developed a "Merit Pay Fund Computation Table" which agencies will use to determine merit pay funds based on their merit pay employee distribution in each grade. This approach, which is incorporated in § 540.103 of the final regulations, provides the highest degree of equity possible for the establishment of individual agency merit pay funds. The provision in the proposed regulations ±5 percent variance in each agency's merit pay fund has been retained in § 540.103, in recognition of the difficulty of meeting an absolute monetary requirement, and to permit agencies some flexibility to allocate more or less of the calculated merit pay fund, depending upon the *performance* of either organizations or individuals.

Two commenters requested that the Office notify agencies as early as possible of the estimate of the amount of merit pay funds. One of these commenters specifically mentioned that there might be practical problems with budgeting for employees who are normally paid from industrial funds. With the use of the "Merit Pay Fund Computation Table" approach, agencies will have sufficient time each year to estimate the portion of the merit pay fund allocations that is attributable to what would have been allocated to within-grade and quality step increases. However, the exact amount of the total comparability adjustment may not be known until near the end of a fiscal year, as under the present General Schedule comparability pay system. Therefore, § 540.103(b) retains the requirement that the Office will provide the needed information before the beginning of each fiscal year.

One commenter noted that there were no provisions in the proposed regulations for operating under continuing resolutions at the beginning of the fiscal year, supplemental appropriations occurring during the year, and rescissions of budget authority in regard to the merit pay funds. The final regulations do not add any such provisions because merit pay funds are not a line item in agency budgets, and funding of the system, for budgeting, appropriation, and expenditure purposes, is the same as the salary funding procedures for General Schedule employees.

Several comments dealt with the computation of the merit pay funds, especially with the effect on the funds of employees positioned at the minimum and maximum of the range of basic pay. The mechanics of determining the merit pay funds are built into the "Merit Pay Fund Computation Table" and will be thoroughly explained in Federal Personnel Manual guidance. One commenter recommended that agencies distribute merit pay funds among merit pay employees in the three covered grades at their own discretion, rather than account for funds grade-by-grade. The proposed regulations did not provide for funding by grades and therefore no change is needed. Agencies have discretion to determine the procedures for internal distribution of funds, consistent with the provisions of the merit pay regulations. Distribution of funds is a matter for agencies to take into account when developing their merit pay plans.

Five commenters raised questions as to whether or not merit pay funds are limited to each appropriation account. The Office of Personnel Management is consulting with the General Accounting Office to determine whether appropriation lines may be crossed within agencies for purposes of allocating merit pay funds. The final regulations provide for a single merit pay fund in each agency but the regulations may be revised in the future in this regard.

Seven commenters recommended that the final regulations be rewritten to make evaluations of organizational accomplishment for merit pay purposes discretionary, as provided in law. It was not intended to require the consideration of organizational accomplishment, and the final regulations, in §§ 540.103 and 540.104, provide that organizational accomplishments *may* be taken into account if the agency determines it is appropriate to do so. Four commenters recommended that the Office of Personnel Management require agencies to maintain objective documentation to support any variations in the level of funding provided different organizations. The final regulations incorporate this recommendation in §§ 540.103 and 540.104.

(4) Merit pay determinations. One commenter noted that the 90-day provision for making merit pay determinations and granting any resulting increase could be a very heavy burden on an agency payroll system and instead recommended a maximum of two pay periods for these retroactive provisions. Another commenter recommended that all retroactive funds be paid to employees before the end of the calendar year, that is, by the last agency pay period in December. The Office of Personnel Management notes that the 90-day provision of the proposed regulations was written to provide agencies with the flexibility to make a merit pay determination within a reasonable period before or after the beginning of the fiscal year. In recognition of the problem described, however, the Office has modified the 90-day provision for making merit pay determinations in § 540.104 to no more than 90 days before or 60 days after October 1, and also requires in § 540.105 that all retroactive funds be paid no later than December 31 of the calendar year during which the merit pay increase takes effect. However, the Office cautions that agencies should take into consideration the

administrative impact as well as the motivational impact on employees in delaying any merit pay increase.

The final regulations provide that a merit pay determination is to be based on a current performance appraisal, which shall include an appraisal of the employee's performance in meeting affirmative action goals and achieving equal opportunity requirements, *to the extent* the employee's position involves such responsibilities. One commenter objected to this provision in the proposed regulations, adding it is either superfluous or it will provide a loophole to avoid responsibility in carrying out the full requirements of a supervisory position. However, the original language has been retained in § 540.104, because there are many "management officials" who will be covered by the Merit Pay System, yet have no supervisory responsibilities. It would be unfair to require the consideration of a factor which is not a part of the employee's position.

Three commenters supported the objective documentation of merit pay determinations, one commenter requested clarification of what the Office considered to be objective documentation, and one commenter disagreed with the need for this requirement at all. In § 540.104 of the final regulations, the Office has modified the documentation requirement to include individual merit pay determinations, and organizational accomplishment, where applicable. In the case of individual merit pay determinations, a written performance appraisal, which has been provided to the employee in accordance with § 430.203(g) of the Office of Personnel Management's regulations, and which has had the concurrence of a higher level official as a part of the merit pay determination, is considered appropriate documentation; in the case of organizational accomplishments, an additional description of the differences of an organization's performance in relation to the performance of other organizations within the agency is considered appropriate documentation.

When the proposed merit pay regulations were written, the Office of Personnel Management's interim performance appraisal regulations and guidance prohibited forced distribution of employee performance ratings. At that time, the Office believed it was clear, by extension, that there was also a prohibition of forced distribution of merit pay determinations and resulting pay adjustments. Since there seemed to be some confusion on this matter during the public comment period, the final regulations in § 540.104 now specifically provide that no merit pay determination may be modified in order to force a specific distribution of performance levels among Merit Pay System employees. In addition, § 540.105 provides that a forced distribution of the dollar or percentage amounts of individual merit pay increases may not be used as a basis for distributing merit pay funds. Intrinsic to the Merit Pay System is the principle that each and every employee is limited in his or her merit pay increase and advancement in the salary range only by his or her performance. Each employee must have an equal chance to be rewarded for effort expended, achievement of objectives, and contribution to the organization. To allow artificial and arbitrary non-performance factors to control the amount of the merit pay increases would, in the Office's opinion, do irreparable harm to the Merit Pay System.

Eight comments were received in regard to the proposed requirement for agency review of merit pay determinations. Five commenters supported the requirement, two opposed it, and one recommended that the requirement be modified to include concurrence by an official at a higher level in the organization than the one who makes the initial merit pay determination. The last recommendation was incorporated in the final regulations. After an analysis of the modified provisions, the Office believes that the regulatory requirement for concurrence of merit pay determinations in § 540.104 does not conflict with or go beyond the purview of 5 U.S.C. 5402. The Office notes that each agency retains full authority to establish its own *procedures* for review; the only requirement is that some concurrence at a higher level be made before the merit pay determination is final. This regulation is based on the general authority in 5 U.S.C. 5405 for the Office of Personnel Management to provide regulations to carry out the purposes of the Merit Pay System. Virtually all existing merit pay plans outside the Federal Government require a before-the-fact merit pay review. That is, some official, other than, and at a higher level than, the one who made the initial merit pay determination, must review and approve the determination before it may become effective. Since Federal supervisors, managers, and management officials will be called upon to make compensation decisions as a new role, the requirement for concurrence is minimal, yet absolutely necessary for the credibility and integrity of the new pay system. Therefore, § 540.104 of the final regulations requires a higher level concurrence in merit pay determinations (except where there is no higher level in the agency).

(5) Merit pay increases. No section of the proposed regulations received more attention than initial merit pay determinations for employees who enter into an established agency merit pay system. It is significant that among the extensive comments received on this matter, none agreed with or supported the Office of Personnel Management's proposal. The most common criticism was lack of a sufficient period to appraise performance before making a merit pay determination. In response to this criticism and in recognition of the probably negligible effect upon most merit pay employees, the Office has eliminated these provisions from the final regulations altogether. It is important to note that in many, if not most instances, employees entering an established agency merit pay system would do so upon promotion. However, in some instances, employees would enter an existing system on the basis of a lateral reassignment. Under the provisions of the final regulations in § 540.105, these employees will be appraised under the normal operation of the Merit Pay System at the same time as the General Schedule pay comparability adjustment. The final regulations do provide in § 540.105, however, that agencies may consider the time since an employee's last increase in pay and the amount of that increase when determining the size of a merit pay increase.

The proposed provisions for merit pay increases have been rewritten for clarity in § 540.105. The final regulations specify that merit pay determinations may take into consideration (1) the employee's grade level; (2) the employee's relative position in the range of basic pay; and (3) the time since an employee's last increase in basic pay and the amount of that increase. Agencies may use these optional performance-related considerations in their merit pay plans to supplement the use of a current performance appraisal in arriving at merit pay determinations and the amounts (if any) of merit pay increases.

Three commenters agreed with the requirement that the annual merit pay adjustment be effective on the same date as the General Schedule pay comparability adjustment, while two commenters disagreed. The Office has retained the General Schedule pay comparability adjustment date for merit pay determinations in § 540.105, and

notes that this method is the only feasible way to comply with the statutory requirement to spend neither more nor less than that which would have been available under the step system.

One commenter requested clarification as to whether or not a merit pay determination includes a determination not to grant an increase. The final regulations in § 540.105 make clear that the decision not to grant an increase is also a merit pay determination.

(6) Interrupted service. One commenter recommended coverage of employees called to active duty in all of the uniformed services as an extension of the benefit for service with the armed forces under the interrupted service provisions in 5 U.S.C. 5402(d). The Office of Personnel Management views this extension of benefit as legally permissible and that such coverage is equitable and consistent with the intent of the merit pay legislation. Therefore, § 540.106 of the final regulations makes the change.

One commenter recommended the inclusion of employees on Intergovernmental Personnel Act (IPA) mobility assignments covered by subchapter VI of chapter 33 of title 5, United States Code, under the interrupted service benefits of the Merit Pay System. This provision would be consistent with the provisions of 5 U.S.C. 3373. Therefore, Part 334 of Title 5, Code of Federal Regulations, will be revised to include such a provision in the regulations dealing with mobility assignments.

One commenter disagreed with the proposed regulations for granting employees with interrupted service the average merit pay adjustment that occurred in their absence. Another asked what guidance will be used for determining the average increase for employees returning from interrupted service. In response to these comments, the final regulations in § 540.106 provide that employees may receive the benefit of average adjustments for employees comparably situated under the Merit Pay System in the agency during the period when the employee's service was interrupted. Thus, agencies are not constrained to a strict average of funds but could take into consideration the grade level of the employee, the employee's relative position in the rate range of basic pay and the period of time since the employee's last equivalent increase in basic pay.

(7) Cash award program. The final regulations in § 540.107 on the cash award program have been revised to clarify the relationship between the merit pay cash award program established under 5 U.S.C. 5403 and the incentive award program established under chapter 45 of title 5, United States Code. Agencies are not expected to administer two separate yet essentially duplicate programs. Instead, agencies must submit to the Office of Personnel Management for approval, as a part of their merit pay plans that portion of the cash award program for merit pay employees that is performance-related. All other non-performance-related aspects of the cash award program must be administered in accordance with the provisions of Part 451 of the Code of Federal Regulations, although the statutory authority of any such cash award provision remains based on 5 U.S.C. 5403. 5 CFR Part 451 will be revised to incorporate these changes.

One commenter recommended that the Office add detailed guidance on the cash award program to the final regulations. The Office will publish Federal Personnel Manual guidance from time to time on the cash award program.

The proposed regulations required agencies to provide documentation of the reasons for cash awards to recipients of cash awards. This requirement has been removed from the final regulations in recognition that in many instances it would be impractical and unnecessary to provide employees with the actual detailed documentation of a cash award. Instead, procedures for documentation are a matter of agency discretion. The Office expects, however, that a letter of commendation or some other written communication will accompany each cash award.

(8) Agency plans for the Merit Pay System. In the proposed regulations, each agency was required to establish and furnish the Office of Personnel Management with a copy of its merit pay plan. Three commenters recommended that the Office provide criteria or additional information for merit pay plans. The Office has given further consideration to its responsibilities and relationship to the agencies under the Merit Pay System and the nature and scope of agency merit pay plans. The Office concluded that the requirement for agencies to submit merit pay plans for approval is needed. The requirement for review of agency performance appraisal systems by the Office of Personnel Management exists in law, and the Office believes that the controversial nature of merit pay and its lack of precedent in the Federal personnel system make it imperative that reasonable quality control be exercised over the proposed programs, while at the same time agencies be given as much flexibility as possible in plan design. Therefore, the Office specifies the minimal criteria for merit pay plans in the final regulations and also requires, in § 540.108, that plans be submitted at least 180 days before they are scheduled to become effective. The Office notes that under the provisions of § 540.108, April 1, 1981, will be the latest date that agencies can submit their merit pay plans for approval.

(9) Reports. There are no substantial changes to the provisions on reports in § 540.109 of the final regulations.

(10) Implementation. The proposed regulations provided for early implementation of the Merit Pay System for a group or category of employees in October 1979 or 1980. However, due to (1) the publication of the final merit pay regulations so close to the October 1979 pay adjustment and (2) the fact that agencies are not prepared to implement the pay provisions of the Merit Pay System in October 1979 (based on information provided by the agencies in a questionnaire distributed at the Interagency Advisory Group Committee on Merit Pay), the provision for early implementation in October 1979 has been removed from § 540.110 of the final regulations.

Text of Law

For the use of readers in understanding the regulations, the text of the relevant laws is set forth below:

(1) The principal statutory provisions concerning the Merit Pay System appear in chapter 54 of title 5, United States Code, the text of which follows:

CHAPTER 54—MERIT PAY AND CASH AWARDS

Sec.
5401. Purpose.
5402. Merit pay system.
5403. Cash award program.
5404. Report.
5405. Regulations.

§ 5401. Purpose.

(a) It is the purpose of this chapter to provide for—

(1) a merit pay system which shall—

(A) within available funds, recognize and reward quality performance by varying merit pay adjustments;

(B) use performance appraisals as the basis for determining merit pay adjustments;

(C) within available funds, provide for training to improve objectivity and fairness in the evaluation of performance; and

(D) regulate the costs of merit pay by establishing appropriate control techniques; and

(2) a cash award program which shall provide cash awards for superior accomplishment and special service.

(b)(1) Except as provided in paragraph (2) of this subsection, this chapter shall apply to any supervisor or management official (as defined in paragraphs (10) and (11) of section 7103 of this title, respectively) who is in a position which is in GS–13, 14, or 15 of the General Schedule described in section 5104 of this title.

(2)(A) Upon application under subparagraph (C) of this paragraph, the President may, in writing, exclude an agency or any unit of an agency from the application of this chapter if the President considers such exclusion to be required as a result of conditions arising from—

(i) the recent establishment of the agency or unit, or the implementation of a new program,

(ii) an emergency situation, or

(iii) any other situation or circumstance.

(B) Any exclusion under this paragraph shall not take effect earlier than 30 calendar days after the President transmits to each House of the Congress a report describing the agency or unit to be excluded and the reasons therefor.

(C) An application for exclusion under this paragraph of an agency or any unit of an agency shall be filed by the head of the agency with the Office of Personnel Management, and shall set forth reasons why the agency or unit should be excluded from this chapter. The Office shall review the application and reasons, undertake such other review as it considers appropriate to determine whether the agency or unit should be excluded from the coverage of this chapter, and upon completion of its review, recommend to the President whether the agency or unit should be so excluded.

(D) Any agency or unit which is excluded pursuant to this paragraph shall, insofar as practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

(E) The Office shall periodically review any exclusion from coverage and may at any time recommend to the President that an exclusion under this paragraph be revoked. The President may at any time revoke, in writing, any exclusion under this paragraph.

§ 5402. Merit pay system

(a) In accordance with the purpose set forth in section 5401(a)(1) of this title, the Office of Personnel Management shall establish a merit pay system which shall provide for a range of basic pay for each grade to which the system applies, which range shall be limited by the minimum and maximum rates of basic pay payable for each grade under chapter 53 of this title.

(b)(1) Under regulations prescribed by the Office, the head of each agency may provide for increases within the range of basic pay for any employee covered by the merit pay system.

(2) Determinations to provide pay increases under this subsection—

(A) may take into account individual performance and organizational accomplishment, and

(B) shall be based on factors such as—

(i) any improvement in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;

(ii) cost efficiency;

(iii) timeliness of performance; and

(iv) other indications of the effectiveness, productivity, and quality of performance of the employees for whom the employee is responsible;

(C) shall be subject to review only in accordance with and to the extent provided by procedures established by the head of the agency; and

(D) shall be made in accordance with regulations issued by the Office which relate to the distribution of increases authorized under this subsection.

(3) For any fiscal year, the head of any agency may exercise authority under paragraph (1) of this subsection only to the extent of the funds available for the purpose of this subsection.

(4) The funds available for the purpose of this subsection to the head of any agency for any fiscal year shall be determined before the beginning of the fiscal year by the Office on the basis of the amount estimated by the Office to be necessary to reflect—

(A) within-grade step increases and quality step increases which would have been paid under subchapter III of chapter 53 of this title during the fiscal year to the employees of the agency covered by the merit pay system if the employees were not so covered; and

(B) adjustments under section 5305 of this title which would have been paid under such subchapter during the fiscal year to such employees if the employees were not so covered, less an amount reflecting the adjustment under subsection (c)(1) of this section in rates of basic pay payable to the employees for the fiscal year.

(c)(1) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title, the rate of basic pay for any position under this chapter shall be adjusted by an amount equal to the greater of—

(A) one-half of the percentage of the adjustment in the annual rate of pay which corresponds to the percentage generally applicable to positions not covered by the merit pay system in the same grade as the position; or

(B) such greater amount of such percentage of such adjustment in the annual rate of pay as may be determined by the Office.

(2) Any employee whose position is brought under the merit pay system shall, so long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under the merit pay system, plus any subsequent adjustment under paragraph (1) of this subsection.

(3) No employee to whom this chapter applies may be paid less than the minimum rate of basic pay of the grade of the employee's position.

(d) Under regulations prescribed by the Office, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee covered by the merit pay system whose continuous service is interrupted in the public interest by service with the armed forces, or by service in essential non-Government civilian employment during a period of war or national emergency.

(e) For the purpose of section 5941 of this title, rates of basic pay of employees covered by the merit pay system shall be considered rates of basic pay fixed by statute.

§ 5403. Cash award program

(a) The head of any agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

(2) performs a special act or service in the public interest in connection with or related to the employee's Federal employment.

(b) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to the employee's Federal employment.

A Presidential cash award may be in addition to an agency cash award under subsection (a) of this section.

(c) A cash award to any employee under this section is in addition to the basic pay of the employee under section 5402 of this title. Acceptance of a cash award under this section constitutes an agreement that the use by the Government of any idea, method, or device for which the award is made does not form the basis of any claim of any nature against the Government by the employee accepting the award, or the employee's heirs or assigns.

(d) A cash award to, and expenses for the honorary recognition of, any employee covered by the merit pay system may be paid from the fund or appropriation available to the activity primarily benefiting, or the various activities benefiting, from the suggestion, invention, superior accomplishment, or other meritorious effort of the employee. The head of the agency concerned shall determine the amount to be contributed by each activity to any agency cash award under subsection (a) of this section. The President shall determine the amount to be contributed by each activity to a Presidential award under subsection (b) of this section.

(e)(1) Except as provided in paragraph (2) of this subsection, a cash award under this section may not exceed $10,000.

(2) If the head of an agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment, or other meritorious effort of an employee for which a cash award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $10,000 but not in excess of $25,000 may be

awarded to the employee on the approval of the Office.

(f) The President or the head of an agency may pay a cash award under this section notwithstanding the death or separation from the service of an employee, if the suggestion, invention, superior accomplishment, or other meritorious effort of the employee for which the award is proposed was made or performed while the employee was covered by the merit pay system.

§ 5404. Report

The Office of Personnel Management shall include in each annual report required by section 1308(a) of this title a report on the operation of the merit pay system and the cash award program established under this chapter. The report shall include—

(1) an analysis of the cost and effectiveness of the merit pay system and the cash award program; and

(2) a statement of the agencies and units excluded from the coverage of this chapter under section 5401(b)(2) of this title, the reasons for which each exclusion was made, and whether the exclusion continues to be warranted.

§ 5405. Regulations

The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.

(2) Under 5 U.S.C. 5401(b)(1), the Merit Pay System applies to those employees in positions classified in GS–13, 14, or 15 who are "supervisors" or "management officials," as those terms are defined in paragraphs (10) and (11) of 5 U.S.C. 7103. The text of paragraphs (10) and (11) follows:

(10) "supervisor" means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority;

(11) "management official" means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

(3) Section 504 of Pub. L. 95–454 contains certain special provisions relating to the initial implementation of the Merit Pay System. The text of section 504 follows:

Sec. 504. (a) The provisions of this title shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1981, except that such provisions may take effect with respect to any category or categories of positions before such day to the extent prescribed by the Director of the Office of Personnel Management.

(b) The Director of the Office of Personnel Management shall include in the first report required under section 5404 of title 5, United States Code (as added by this title), information with respect to the progress and cost of the implementation of the merit pay system and the cash award program established under chapter 54 of such title (as added by this title).

Accordingly, the Office of Personnel Management is adding to Chapter I of Title 5 of the Code of Federal Regulations a new Part 540, as set forth below:

PART 540—MERIT PAY SYSTEM

Sec.

540.101 General.
540.102 Ranges of basic pay and employee coverage.
540.103 Determination and allocation of merit pay funds.
540.104 Merit pay determinations.
540.105 Merit pay increases.
540.106 Interrupted service.
540.107 Cash award program.
540.108 Agency plans for Merit Pay System.
540.109 Reports.
540.110 Implementation.

Authority: 5 U.S.C. 5401–5405; Pub. L. 95–454, section 504.

§ 540.101 General.

Chapter 54 of title 5, United States Code (5 U.S.C. 5401–5405), provides for a Merit Pay System to recognize and reward quality performance by supervisors and management officials (as defined in 5 U.S.C. 7103(10)–(11)) in positions classified in GS–13, 14, or 15. This part contains the regulations which the Office of Personnel Management has prescribed for the Merit Pay System. This part supplements and implements the provisions of 5 U.S.C. 5401–5405, and section 504 of Pub. L. 95–454 (concerning the implementation of the Merit Pay System), and must be read together with those provisions of law.

§ 540.102 Ranges of basic pay and employee coverage.

(a) Under 5 U.S.C. 5402(a), the Office of Personnel Management is required to establish a Merit Pay System which provides a range of basic pay for each grade of the Merit Pay System. The Merit Pay System shall consist of three grades, as follows:

(1) GM–13, which shall consist of supervisors and management officials who are in positions classified in GS–13;

(2) GM–14, which shall consist of supervisors and management officials who are in positions classified in GS–14; and

(3) GM–15, which shall consist of supervisors and management officials who are in positions classified in GS–15.

(b) The range of annual rates of basic pay for each grade of the Merit Pay System shall be the same as the range of annual rates of basic pay for the corresponding grade of the General Schedule, including any rates authorized under 5 U.S.C. 5303 for any position covered by such authorization.

(c) The head of each agency shall identify employees who are supervisors or management officials for purposes of coverage by the Merit Pay System.

§ 540.103 Determination and allocation of merit pay funds.

(a) Under 5 U.S.C. 5402(b)(4), the Office of Personnel Management must determine the funds available for merit pay purposes. In order to allow the Office to do this, each agency covered by the Merit Pay System shall submit such data as the Office may require.

(b) Before the beginning of each fiscal year, the Office of Personnel Management shall issue a Merit Pay Fund Computation Table, together with instructions for its use. Each agency covered by the Merit Pay System shall use this table to determine the amount of the merit pay fund available to the agency.

(c) Each agency covered by the Merit Pay System is required to establish procedures to ensure that the merit pay fund in the agency is allocated in a fair and objective manner. Variations in the level of merit pay funding provided different organizational elements in the agency must be based solely on differences in the Merit Pay System payroll for the different organizational elements, unless the agency determines that variations should also be based on differences in organizational accomplishments of the different elements. If differences in organizational accomplishments are to be taken into consideration, those differences must be determined on the basis of a fair and objective assessment of each organization's performance in relation to that of other organizations within the agency, and the basis for the determination must be fully documented.

(d) Each agency covered by the Merit Pay System is required to establish procedures to ensure that the sum of merit pay increases awarded each year under § 540.105 of this part to Merit Pay System employees in the agency is no less than 95 percent and no more than 105 percent of the agency's merit pay fund (unless the Office of Personnel Management has granted prior approval for a lesser or greater obligation).

§ 540.104 Merit pay determinations.

(a) A merit pay determination is to be made for each employee covered by the Merit Pay System on October 1 of each year, or on the closest date before or after October 1 that is determined by the agency to be administratively feasible (but in no event more than 90 days before or 60 days after October 1).

(b) Each merit pay determination is to be based on a current performance appraisal (which shall include an appraisal of the employee's performance in meeting affirmative action goals and achieving equal employment opportunity requirements, to the extent the employee's position involves such responsibilities). Except in the case of agencies or employees not covered under chapter 43 of title 5, United States Code, performance appraisals are to be made under a performance appraisal system that has been approved by the Office of Personnel Management under 5 U.S.C. 4304(b)(1).

(c) If the agency determines it is appropriate to do so, a merit pay determination may also take into consideration the accomplishments of the organizational element within which the employee is employed. If organizational accomplishments are taken into consideration, the accomplishments of the organizational element must be determined on the basis of a fair and objective assessment of that organization's performance in relation to that of other organizations within the agency, as documented under § 540.103(c) of this part.

(d) No merit pay determination may take into consideration any preestablished or forced distribution of levels of performance among Merit Pay System employees.

(e) Agency procedures for making merit pay determinations must include a requirement for a concurrence in each merit pay determination by an official of the agency who is at a higher level than the official who made the merit pay determination (unless there is no official at a higher level in the agency).

(f) The reasons for each merit pay determination are to be documented and shall be made available to the affected employee at his or her request.

(g) No merit pay increase resulting from a merit pay determination may be put into effect until the requirements of this section have been met.

§ 540.105 Merit pay increases.

(a) Each agency shall establish a procedure for determining in a fair and objective manner the amount of merit pay increase that shall be granted each Merit Pay System employee. The amount of merit pay increase (if any) for each Merit Pay System employee each fiscal year shall be based on the merit pay determination made with respect to October 1 of that fiscal year under § 540.104 of this part, but may also take into consideration the grade level of the employee, the position of the employee's existing rate of basic pay within the range of basic pay for the employee's grade, the period of time since the employee's last increase in rate of basic pay (other than an increase under 5 U.S.C. 5303, 5305, 5307, 5343(a), 5363(a)(B), or 5402(c)(1)), and the amount of such last increase in rate of basic pay. The amount of merit pay increase for each Merit Pay System employee may not take into consideration any preestablished or forced distribution of dollar or percentage amounts of individual merit pay increases.

(b) All merit pay increases each fiscal year shall be made effective on the same day the pay adjustment under 5 U.S.C. 5402(c)(1) becomes effective in that fiscal year. If, under § 540.104(a) of this part, a merit pay determination is not made until after a pay adjustment under 5 U.S.C. 5402(c)(1) becomes effective, the resulting merit pay increase (if any) shall be made retroactive to the effective date of the pay adjustment under 5 U.S.C. 5402(c)(1). In no event shall the retroactive payment be made later than December 31 of the calendar year during which such pay adjustment takes effect.

(c) A Merit Pay System employee's rate of basic pay may not be less than the minimum nor more than the maximum rate of basic pay for the employee's grade in the Merit Pay System. Notwithstanding any merit pay determination—

(1) Each Merit Pay System employee's rate of basic pay must be increased, effective on the same day a pay adjustment under 5 U.S.C. 5402(c)(1) becomes effective, by any amount necessary to raise the employee's rate of basic pay to the new minimum rate for the employee's grade; and

(2) No Merit Pay System employee's rate of basic pay may be increased by an amount that would cause that rate of basic pay to exceed the maximum rate for the employee's grade.

§ 540.106 Interrupted service.

(a) An employee covered by the Merit Pay System, whose continuous service is interrupted in the public interest by service with the uniformed services or by service in essential non-Government civilian employment during a period of war or national emergency, is entitled to have his or her pay fixed in accordance with this section upon:

(1) Reemployment in a position under the Merit Pay System not later than 52 calendar weeks after separation from active duty in the uniformed services;

(2) Restoration to a position under the Merit Pay System after separation from active duty in the uniformed services (or hospitalization continuing thereafter) as provided by law; or

(3) Reemployment in or restoration to a position under the Merit Pay System without a break in service after service in essential non-Government civilian employment during a period of war or national emergency.

(b) An employee under the Merit Pay System who is entitled to have his or her pay fixed under this section shall have his or her pay fixed within the range of basic pay for the employee's position at a rate which is the lesser of—

(1) The maximum rate of the range of basic pay, or

(2) The sum of—(i) The employee's rate of basic pay under the Merit Pay System immediately before the interruption of service entitling the employee to coverage under this section;

(ii) The adjustments that would have been made in the employee's rate of basic pay under 5 U.S.C. 5402(c)(1) had the employee's service not been interrupted; and

(iii) The average adjustments under 5 U.S.C. 5402(b) that were received by comparably situated employees under the Merit Pay System in the agency during the period when the employee's service was interrupted.

§ 540.107 Cash award program.

(a) 5 U.S.C. 5403 authorizes a cash award program as part of the Merit Pay System. Each agency covered by the Merit Pay System shall establish a cash award program for its Merit Pay System employees in accordance with the provisions of 5 U.S.C. 5403 and this section.

(b) Each agency's cash award program shall provide for the administration of cash awards for Merit Pay System employees, except as provided in paragraph (c) of this section, as a part of and in conjunction with the Merit Pay System, and shall establish procedures to ensure that:

(1) Cash awards are made in a fair and objective manner; and

(2) The reasons for each award are documented in such manner as the agency may prescribe.

(c) Cash awards that are not related to the Merit Pay System employee's performance in his or her position are to be administered in accordance with the provisions of Part 451 of this chapter and the agency's incentive award

program established pursuant to Part 451.

(d) The Office of Personnel Management shall establish and publish in the Federal Personnel Manual procedures for considering agency certifications for cash awards under 5 U.S.C. 5403(e)(2).

§ 540.108 Agency plans for Merit Pay System.

(a) Each agency with employees who are subject to the Merit Pay System shall establish a plan for administering the Merit Pay System within that agency. Each agency's plan shall be consistent with the provisions of 5 U.S.C. 5401–5403 and this part, and shall include, in addition to provisions to carry out the requirements of §§ 540.103, 540.104, 540.105, and 540.107 of this part, provisions for—

(1) Communication to the agency's Merit Pay System employees of the purpose of the Merit Pay System and how it works; and

(2) Training in the operation of the Merit Pay System for employees who are subject to that System and for employees who are responsible for its operation.

(b) Each plan for administering the Merit Pay System (and each subsequent change in that plan) shall be submitted to the Office of Personnel Management not less than 180 days before the plan (or change in the plan) is scheduled to become effective. The Office shall advise the agency within 90 days of receipt of the plan (or change in the plan) whether the plan (or change in the plan) is approved. The agency may not implement the plan (or change in the plan) unless it has been approved by the Office.

§ 540.109 Reports.

Under 5 U.S.C. 5404, the Office of Personnel Management is required to include in its annual report to the President under 5 U.S.C. 1308 a report on the operation of the Merit Pay System and the cash award program established under chapter 54 of title 5, United States Code, and the provisions of this part. In order to provide information needed for this report, each agency shall maintain such records and submit to the Office such reports as the Office may require.

§ 540.110 Implementation.

(a) Except as provided in paragraph (b) of this section, the Merit Pay System shall be effective on October 1, 1981, and a merit pay determination shall be made for each Merit Pay System employee on that date, or on the closest date before or after that date that is determined by the agency to be administratively feasible (but in no event more than 90 days before or 60 days after October 1, 1981).

(b) An agency may implement the Merit Pay System for any group or category of supervisors or management officials in positions classified in GS–13, 14, or 15 on October 1, 1980, provided that the agency advises the Office of Personnel Management of such implementation not later than March 31, 1980.

Office of Personnel Management

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-27916 Filed 9-6-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27, 28, and 61

Cotton and Cottonseed; Revision in Fees; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rulemaking; correction.

SUMMARY: On July 11, 1979, the Agricultural Marketing Service published final rules revising fees for cotton classing and related services. This document corrects one of the fees listed in that document.

FOR FURTHER INFORMATION CONTACT: Mr. Julius Jerome Boyd, Marketing Services Branch, Cotton Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Tel. (202) 447–7857.

SUPPLEMENTARY INFORMATION: In FR Doc. 79–21429 appearing on page 40491 in the **Federal Register** of July 11, 1979, in Part 28-Cotton Classing, Testing and Standards, under § 28.956 Prescribed Fees, Kind of Test, in Item 9.0-Cotton carded yarn spinning test, appearing on page 40493, the fee is corrected to read "$85.00."

Dated: September 4, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-27910 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-02-M

7 CFR Part 910

[Lemon Reg. 215]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period September 9–15, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 9, 1979.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on September 4, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons remains somewhat slow.

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), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202-447-5975.

§ 910.515 Lemon Regulation 315.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period September 9, 1979, through September 15, 1979, is established at 210,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

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

Dated: September 6, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-28147 Filed 9-6-79; 11:15 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Submission of Translations of Documents; Remittance of Fees From Foreign Countries

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This document amends two regulations of the Immigration and Naturalization Service. The first amendment clarifies the regulation concerning the submission of verbatim translations of foreign documents submitted in support of applications and petitions. The second amendment provides a simplified manner of remittance of fees on applications and petitions submitted from overseas.

These amendments are necessary and intended to reduce the paperwork burden on the applicants and the Government, and facilitate the processing of these applications and petitions generally.

EFFECTIVE DATE: September 7, 1979.

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

SUPPLEMENTARY INFORMATION: This order amends 8 CFR 103.2(b)(1) and 8 CFR 103.7(a).

Existing 8 CFR 103.2(b)(1) provides that a foreign document must be accompanied by an English translation. This has been interpreted to require verbatim translations of all foreign documents submitted. However, such translations are not necessary in all cases. In order to clarify the regulation, and reduce the burden on the public of providing complete verbatim translations in all cases, this regulation will be revised to provide that the required English translation be provided in accordance with the instructions printed on the application or petition form.

The second amendment in this order concerns the procedure for submitting fees by means of international postal money orders at 8 CFR 103.7(a).

The existing regulation provides that if payment is made by international money order of the type which cannot be mailed with the application or petition, it must be drawn on the postmaster of the city in the United States to which the application or petition is being mailed. This type of money order must receive additional handling by the U.S. Postal Service and by our Service because the money order must first clear the Postal Service, and the fee then be reunited with the application or petition which has previously been mailed to the Service office. This cumbersome procedure is no longer necessary. Provision is now available in all foreign countries to obtain bank international money orders or foreign drafts drawn on United States financial institutions and payable in U.S. currency. Use of these instruments would eliminate much paperwork and enable the application and fee from overseas to be submitted at the same time, eliminating the delay in processing while waiting for the international postal money order to clear and be united with the application or petition.

Therefore, we will amend 8 CFR 103.7(a) to delete the existing provision relating to submission of international postal money orders, and substitute a provision under which remittance of fees may be made by means of bank international money orders or foreign drafts, drawn on U.S. financial institutions and payable in U.S. currency.

In the light of the foregoing, the following amendments are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. Section 103.2(b)(1) is amended by revising the fifth sentence to read as follows:

§ 103.2 Applications, petitions and other documents.

* * * * *

(b) *Evidence*—(1) *Requirements.* * * * A foreign document must be accompanied by an English translation in accordance with the instructions on the application or petition form. * * *

* * * * *

2. Section 103.7(a) is amended by revising the ninth (final) sentence to read as follows:

§ 103.7 Fees.

(a) *Remittances.* * * * If application is submitted from outside the United States, remittance may be made by bank international money order or foreign draft drawn on a financial institution in the United States and payable to the Immigration and Naturalization Service in United States currency.

* * * * *

(Sec. 103, 8 U.S.C. 1103.)

These amendments are published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), 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 section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments contained in this order relate to Service procedure and simplify the manner in which document translations and certain fees may be submitted to the Service.

EFFECTIVE DATE: These amendments become effective on September 7, 1979.

Dated: August 31, 1979.

Leonel J. Castillo,

Commissioner of Immigration and Naturalization.

[FR Doc. 79-27883 Filed 9-6-79; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

10 CFR Part 211

[Docket No. ERA-R-79-27A]

Final Rule to Extend Entitlement Benefits for Middle Distillate Imports

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Emergency adoption of final rule and notice of public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is extending through October 31, 1979 the entitlement benefits for middle distillate imports which were originally provided in a Final Rule adopted on May 24, 1979. This action is intended to continue to encourage middle distillate imports to maintain the increased import levels which have followed the adoption of the May 24th Rule.

DATES: Effective for the period September 1, 1979 through October 31, 1979. Requests to speak by September 17, 1979. Hearing date: September 25, 1979.

ADDRESS: Written comments and requests to speak to: Office of Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-79-27, 2000 M Street, NW., Washington, D.C. 20461. Hearing Location: Room 2105, 2000 M Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Gerald P. Emmer, Office of Regulations and Emergency Planning, Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7200.

Douglas McIver, Entitlements Program Office, Economic Regulatory Administration, 2000 M Street, NW., Room 6128-I, Washington, D.C. 20461, (202) 254-8660.

Ben McRae, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6A-127, Washington, D.C. 20585, (202) 252-6754.

William L. Webb, Office of Public Information, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.

SUPPLEMENTAL INFORMATION:

I. Background and Amendment Adopted
II. Procedural Requirements
III. Comment Procedures

I. Background and Amendment Adopted

On May 24, 1979, we adopted, on an emergency basis, amendments to the entitlements program which have provided a $5 entitlement benefit to middle distillate imports for the months of May 1979 through August 1979 (44 FR 31162, May 31, 1979). This action was based on our finding that there existed a serious shortage of domestic supplies of middle distillates and was intended to facilitate and encourage the increased importation of middle distillates from refineries located in the Caribbean and elsewhere in the western hemisphere. Following the adoption of these amendments, there was an increase in both the level of middle distillate imports and the number of importers of middle distillates.

The President has set a goal of home heating oil stocks of 240 million barrels by October 31, 1979. We estimate that such primary level stocks will protect against serious harm and injury to the public health, safety, and welfare in the coming winter. At the time the May 24th Rule was adopted, stocks of middle distillate were far below levels for the same period of 1978. While present stock levels remain below those of last year, increases to those stocks are being made at a greater rate than last year and the gap is being closed. If the current rate of accumulation is maintained until the end of October, we will reach a stock level (240 million barrels) which, we believe, will assure adequate stocks of middle distillate for the winter. A reduction of middle distillate imports, on the other hand, could jeopardize that objective and the public well being. Accordingly, prudence dictates that the current entitlement benefit for imports of middle distillate should be continued to October 31, 1979.

Therefore, we are amending 10 CFR 211.67(a)(6)(i), effective immediately, to provide that entitlement benefits will be available for middle distillate imports during the period of May 1, 1979 through October 31, 1979.

Today's amendment only extends the period during which entitlement benefits are available for middle distillate imports. The description of these benefits in the May notice remains valid and is incorporated herein by reference.

II. Procedural Requirements

A. Section 501 of the DOE Act

Under section 501(e) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91, DOE Act), we may waive the prior notice and hearing requirements of subsections (b), (c) and (d) of section 501 upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare. We believe such a finding can and should be made in this instance. If we were to comply with these provisions prior to adopting a final rule on this subject, it is likely that middle distillate importers would await the outcome of the rulemaking proceeding before committing further volumes to the U.S. market. Such an event could seriously disrupt the effort to ensure that adequate supplies of home heating oil are available for the coming winter.

In light of all the foregoing, we have waived the requirements of section 501 (b), (c), and (d) to the extent necessary to adopt this amendment effective immediately.

However, in accordance with section 501(e) and in order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we will hold a public hearing on September 25, 1979 and will receive written comments for a period of thirty days following the publication of this rule. We will reconsider today's action in light of the comments received in order to decide whether we should take any further action in this rulemaking proceeding.

B. Section 404 of the DOE Act

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under sections 402 (a)(1) or (b) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review this amendment, the FERC has declined to determine that it may significantly affect one of its functions under the sections noted above.

C. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

Prior review by the EPA Administrator may be waived for a period of fourteen days if there is an emergency situation which necessitates that a proposed action be made effective at a date earlier than that which would permit the EPA Administrator the five working days opportunity for prior comment. Notice of any such waiver shall be given to the EPA Administrator and filed with the **Federal Register** with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as is determined will apprise the EPA and the public of the reasons for such waiver.

We have determined that the five working days opportunity for prior comment by the EPA Administrator should be waived. The reasons for the waiver are the same as those which support adopting the amendment effective immediately and are set forth in the preceding sections of this preamble. A copy of the amendment and this preamble have been provided to the EPA.

D. Section 553 of the Administrative Procedure Act

Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. We have determined that good cause is found to waive the section 553(d) requirement for the reasons stated above in support of adopting the amendment effective immediately.

E. Executive Order 12044

The requirements of Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy as they relate to the amendment adopted today for the reasons previously stated for making that amendment effective immediately.

III. Comment Procedures

A. Written Comments

You are invided to participate in this proceeding by submitting data, views, or arguments with respect to the amendment adopted today by no later than thirty days following publication of this rule. comments should be identified on the outside of the envelope and on the documents submitted with the designation "Entitlements for Imports of Middle Distillates." Fifteen copies should be submitted. All comments that we receive will be available for public inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify separately any information or data you consider to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearing

1. *Procedure to request participation.* The time and place for the public hearing are indicated in the "ADDRESSES" and "DATES" sections of this Notice. If necessary to present all testimony, the public hearing will be continued to 9:30 a.m. of the first business day following the hearing date shown above.

You may make a written request for an opportunity to make an oral presentation at the hearing. The request should contain a phone number where you may be contacted through the day before the hearing.

We will notify each person selected to be heard before 4:30 p.m., September 19, 1979. Persons scheduled to speak at the hearing must send 100 copies of their statement to the address indicated in the "ADDRESSES" section of this notice by 4:30 p.m., September 24, 1979.

2. *Conduct of the hearing.* We reserve the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing, which will not be a judicial or evidentiary-type hearing. Questions may be asked only by those officials conducting the hearing. Each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing. Questions must be submitted three days before the hearing to the same address indicated above for requests to speak. In addition, at the hearing you may submit questions, in writing, to the presiding officer. He or she will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

In the event that it becomes necessary for us to cancel the hearing, we will make every effort to publish advance notice in the **Federal Register** of such cancellation. Moreover, we will notify all persons scheduled to testify at the hearing. However, it is not possible to give actual notice of cancellations or schedule changes to persons not identified to us as participants. Accordingly, persons desiring to attend the hearing are advised to contact us on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below effective immediately.

Issued in Washington, D.C., August 31, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

1. Section 211.67(a) is amended by revising paragraph (a)(6)(i) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(a) * * *

* * * * *

(6)(i) For each month in the period May 1, 1979 through October 31, 1979, each firm that imports "distillate fuel oil, less No. 4" and "kerosene" as those terms are defined in the instructions to ERA Form ERA-60, that is the importer of record under a license issued pursuant to Part 213 of this chapter, and that owns the product at the time of importation thereof pursuant to that license shall be issued a number of entitlements equal to the number of barrels of distillate fuel oil, less No. 4, and kerosene imported in that month by

that firm multiplied by a fraction, the numerator of which is $5, and the denominator of which is the entitlement price for that month.

* * * * *

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332. Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101, *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

[FR Doc. 79–27994 Filed 9–6–79; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

10 CFR Part 212

[ERA–R–77–16]

Mandatory Petroleum Price Regulations; Adjustments to Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues Crude Oil Price Schedule No. 16 which provides for monthly increases in the ceiling prices for lower tier and upper tier crude oil to reflect the current rate of inflation. This action will result in estimated first sale prices for the months of September, October, and November 1979 of $6.02, $6.06, and $6.10 per barrel (lower tier) and $13.43, $13.53, and $13.63 per barrel (upper tier), respectively.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, 202–634–2170.

Charles P. Little (Crude Oil Pricing Branch), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128, Washington, D.C. 20461, 202–254–6296.

Ben McRae (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6A–127, Washington, D.C. 20585, 202–252–6739.

SUPPLEMENTARY INFORMATION:

A. *Introduction.*
B. *Crude Oil Price Schedule No. 16.*

A. Introduction

On May 30, 1979, we issued Crude Oil Price Schedule No. 15 (44 FR 33052, June 8, 1979), which continued the crude oil pricing policy of permitting the prices for lower tier and upper tier crude oil to increase at the current rate of inflation. We have decided not to depart from that policy during the months of September, October, and November 1979. Accordingly we are issuing Crude Oil Price Schedule No. 16 which provides for increases in the ceiling prices for lower tier and upper tier crude oil during those months which correspond to the current rate of inflation.

B. Crude Oil Price Schedule No. 16

Under Crude Oil Price Schedule No. 16 the August 1979 lower tier ceiling price (the May 15, 1973 posted price plus $2.29 per barrel, resulting in an average first sale price of approximately $5.98 per barrel), and the August 1979 upper tier price (the September 30, 1975 posted price plus $.66, resulting in an average first sale price of approximately $13.33 per barrel), are adjusted for inflation for September, October, and November 1979, based on the first revision of the GNP deflator published on August 21, 1979, which reflects an annual rate of inflation of 9.2 percent.

1. *Lower tier ceiling prices.* Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in September, October, and November 1979 are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of .00736 which when applied over a twelve-month period yields an effective annual rate of adjustment of 9.2 percent.

B. September 1979 adjustment = ($5.98) (.00736) per barrel = $.044 per barrel rounded to $.04 per barrel.

C. October 1979 adjustment = ($5.98 + .04) (.00736) per barrel = $.044 per barrel rounded to $.04 per barrel.

D. November 1979 adjustment = ($5.98 + .04 + .04) (.00736) per barrel = $.044 per barrel rounded to $.04 per barrel.

Based upon the monthly adjustments computed above, estimated average lower tier ceiling prices for the months of September, October, and November 1979 are computed as follows:

September 1979 = $5.98 + .04 = $6.02.
October 1979 = $6.02 + .04 = $6.06.
November 1979 = $6.06 + .04 = $6.10.

Using an average highest posted field price on May 15, 1973 of $3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price[1]
September 1979	May 15, 1973 highest posted field price plus $2.33.	$6.02
October 1979	May 15, 1973 highest posted field price plus $2.37.	$6.06
November 1979	May 15, 1973 highest posted field price plus $2.41.	$6.10

[1] Estimated average first sale price.

2. *Upper tier ceiling prices.* Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in September, October, and November 1979 are determined pursuant to the following methodology:

A. Adjustment factor (explained above) = .00736.

B. September 1979 adjustment = ($13.33)(.00736) per barrel = $.098 per barrel rounded to $.10 per barrel.

C. October 1979 adjustment = ($13.33 + .10)(.00736) per barrel = $.099 per barrel rounded to $.10 per barrel.

D. November 1979 adjustment = ($13.33 + .10 + .10)(.00736) per barrel = $.100 per barrel or $.10 per barrel.

Based upon monthly adjustments computed above, estimated average upper tier ceiling prices for the months of September, October, and November 1979 are computed as follows:

September 1979 = $13.33 + $.10 = $13.43.
October 1979 = $13.43 + $.10 = $13.53.
November 1979 = $13.53 + $.10 = $13.63.

Using an average highest posted field price on September 30, 1975 of $12.67 per barrel and the monthly adjustments as computed above, upper tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price[1]
September 1979	September 30, 1975 highest posted field price plus $0.76.	$13.43
October 1979	September 30, 1975 highest posted field price plus $0.86.	$13.53
November 1979	September 30, 1975 highest posted field price plus $0.96.	$13.63

[1] Estimated average first sale price.

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

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as

set forth below, effective September 1, 1979.

Issued in Washington, D.C., August 31, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Section 212.77 is amended in the Appendix to add Schedule No. 16 of Monthly Price Adjustments, as follows:

§ 212.77 Adjustments to ceiling prices.

* * * * *

Appendix

* * * * *

Schedule No. 16 of Monthly Price Adjustments Effective September 1, 1979

Month	Lower tier, May 15, 1973, posted price [1] (plus)	Upper tier, Sept. 30, 1975, posted price [2] (plus
1976:		
February	1.35–	1.32
March	1.38–	1.25
April	1.41–	1.18
May	1.45–	1.11
June	1.48–	1.05
July	1.48–	1.05
August	1.48–	1.05
September	1.48–	1.05
October	1.48–	1.05
November	1.48–	1.05
December	1.48–	1.05
1977:		
January	1.48–	1.25
February	1.48–	1.25
March	1.48–	1.70
April	1.48–	1.70
May	1.48–	1.70
June	1.48–	1.70
July	1.48–	1.70
August	1.48–	1.70
September	1.51–	1.44
October	1.54–	1.18
November	1.57–	.92
December	1.59–	.87
1978:		
January	1.61–	.82
February	1.63–	.77
March	1.66–	.71
April	1.69–	.65
May	1.72–	.59
June	1.75–	.52
July	1.78–	.45
August	1.81–	.38
September	1.86–	.28
October	1.91–	.17
November	1.96–	.06
December	1.99	.01
1979:		
January	2.02	.08
February	2.05	.15
March	2.09	.23
April	2.13	.31
May	2.17	.39
June	2.21	.48
July	2.25	.57
August	2.29	.66
September	2.33	.76
October	2.37	.86
November	2.41	.96

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).

[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on September 1, 1979, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through August 1979, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 15 effective June 1, 1979, are further increased as indicated in this schedule, effective September 1, 1979.

This schedule is effective only through November 30, 1979.

[FR Doc. 79-27979 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 223

[Regulation ER-1149; Amdt. No. 7; Docket 33886]

Free and Reduced-Rate Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 31, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: Current CAB regulations permit carriers to provide, subject to numerous restrictions, free or reduced-rate domestic air transportation to travel agents on promotional group tours. This amendment issued in response to a petition by certain air carriers, broadens the rule to permit carriers to offer travel agents unrestricted free or reduced-rate promotional transportation in foreign and domestic markets.

DATES: Effective: August 31, 1979. Adopted: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: David R. Parker, Attorney-Advisor, Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428, 202/673-5224.

SUPPLEMENTARY INFORMATION: Part 223 of the Board's Economic Regulations (14 CFR Part 223) allows carriers to provide free or reduced-rate transportation for travel agents on promotional group tours. These regulations contain conditions restricting the offer of promotional tours. The conditions in § 223.2(f)(1)–(8) restrict the geographical scope of the tour, dictate minimum tour group size, prescribe the minimum and maximum duration of the tour, regulate the tour agenda, and impose pre- and post-tour reporting requirements. Further, the term "travel agent" is defined in § 223.1 so that only agents continuously employed full-time by an agency for at least one year qualify for free transportation privileges under Part 223.

In EDR-375 (44 FR 27680, May 11, 1979), we tentatively decided that the public interest justifies eliminating the conditions and limitations on group familiarization tours set forth in §§ 223.2(f)(1)–(8) and section 223.1 to allow carriers to offer travel agents unrestricted free or reduced-rate promotional transportation in foreign and domestic markets. We found that promotional travel is a useful tool for promoting air transportation, that there are no public interest reasons to limit the type of promotional incentives carriers offer travel agents, and that there is no incentive for carriers to engage in irrational conduct and offer free transportation without countervailing benefits.

In response to EDR-375, we received comments from the American Automobile Association, Air BVI Limited (Air BVI), American Airlines, Trans World Airlines, Aerovias Nacionales De Colombia (AVIANCA), Linea Aereas Paraguayas (LAP), Finnair, Singapore Airlines Limited (SIA), Deutsche Lufthansa Aktiengesellschaft (Lufthansa) and the Government of the Virgin Islands of the United States (Virgin Islands). We also received several individual comments from travel agents.

All commenters supported the rule, but several requested that we extend unrestricted eligibility under Part 223 to certain categories of persons in addition to travel agents. AVIANCA requested that the rule be expanded to include travel agent spouses; Air BVI and LAP urged coverage for travel writers; Finnair requested coverage for travel writers and tour operators; and the Virgin Islands requested coverage for the representatives of U.S. territorial government tourism offices. We are, however, currently conducting a general review of our free and reduced-rate transportation policies and in another proceeding we intend to consider extending promotional transportation privileges to other groups in the travel industry. Therefore, we will finalize the rule substantially as proposed in EDR-375, with some minor changes.

SIA and Lufthansa requested revisions in our proposed rule to make it clear that the proposed rule applies to foreign as well as domestic carriers. The proposed rule defined a "familiarization tour" as a "tour organized and controlled by one or more *air carriers* * * *." Since *air carriers* is defined in section 101(3) of the Federal Aviation Act as referring to only U.S. carriers, the exemption set forth in EDR-375 would technically exclude foreign carriers. We did not intend this result. Therefore, in this final rule the term "carriers" replaces the phrase "air carriers," to

indicate that foreign as well as domestic carriers qualify for this exemption.

We are, as proposed, changing the definition of "travel agent" so that any person can qualify who is employed (full time or Part-time) in a travel agency and devotes his time there to promotion and sale of transportation and related services. We are substituting for the old definition of "domestic group familiarization tour" a new definition of "familiarization tour" that, in effect, allows any free or reduced-rate tours organized by an airline to promote air travel by familiarizing agents with tourist attractions, accommodations, and recreational facilities. The words "and controlled," included in the proposal, are omitted as surplusage.

Because this rule relieves a restriction and creates no additional burden, we find that it may become effective immediately.

Accordingly, we amend Part 223 of the Board's Economic Regulations (14 CFR Part 223), *Free and Reduced-Rate Transportation*, as follows:

1. In § 223.1, *Definitions*, the present definitions of "domestic group familiarization tour" and "travel agent" are deleted, and the following definitions are added:

§ 223.1 Definitions.

* * * * *

"Familiarization tour" means a tour organized by one or more carriers for the purpose of promoting the sale of air transportation by familiarizing a travel agent with tourist attractions, accommodations, and recreational facilities.

* * * * *

"Travel agent" means a person employed in a travel agency, who devotes his, or her employment time in the agency primarily to the promotion and sale of transportation and related services.

2. Section 223.2(f) is amended to read:

§ 223.2 Persons to whom free and reduced-rate transportation may be furnished.

* * * * *

(f) Carriers are hereby exempted from section 403 of the Act and Part 221 of this chapter to the extent necessary to enable them to provide free or reduced-rate transportation to travel agents on familiarization tours.

* * * * *

(Secs. 204, 403 and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 and 771, 92 Stat. 1731; 49 U.S.C. 1324, 1373 and 1386.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27945 Filed 9-6-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 385

[Regulation OR-156; Amdt. No. 89; Docket 35464]

Delegations and Review of Action Under Delegation; Nonhearing Matters; Delegation to the Director, Bureau of Pricing and Domestic Aviation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. August 31, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In PR-213, issued simultaneously, the CAB established procedures for determining the essential air service levels for small communities. The CAB is delegating to the Director, Bureau of Domestic Aviation, the authority to issue the determinations of a community's essential air service level.

DATES: Effective: September 7, 1979. Adopted: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428; 202-673-5408.

SUPPLEMENTARY INFORMATION: As a result of a recent reorganization, the name of the Bureau of Pricing and Domestic Aviation has been changed to the Bureau of Domestic Aviation. This rule also reflects that change. Further amendments to the delegations to reflect the reorganization will be made at a later date.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, as follows:

1. Subpart B of the Table of Contents is amended by redesignating § 385.13, to read:

Subpart B—Delegation of Functions to staff Members

* * * * *

Sec.

385.13 Delegation to the Director, Bureau of Domestic Aviation.

* * * * *

2. The title of § 385.13 is amended and a new paragraph (e) is added, to read:

§ 385.13 Delegation to the Director, Bureau of Domestic Aviation.

* * * * *

(e) Issue determinations of the essential air service levels of eligible points under § 325.5 of this chapter and section 419 of the Act.

* * * * *

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27942 Filed 9-6-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

Expiration of Temporary Requirements for Exports of Used Vehicles

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of Expiration of Temporary Requirements.

SUMMARY: In the Federal Register of October 31, 1978 (43 FR 50674), a final rule was published amending section 30.7 of the Foreign Trade Statistics Regulations and adding a new section 30.42 to provide that for a period of 6 months only, for exports of used vehicles (including vehicles shipped to Puerto Rico), the exporter or his agent would be required to present the Shipper's Export Declaration bearing that vehicle's identification number to Customs at least 48 hours in advance of exportation, and that carriers might not transport used vehicles from the United States until a copy of the Shipper's Export Declaration approved by Customs had been delivered to the carrier.

EFFECTIVE DATE: May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emanuel A. Lipscomb, Chief, Foreign Trade Division (301) 763-5342.

This notice confirms that the 6-month effective period for these requirements expired on May 30, 1979. Section 30.42, and the reference to § 30.42 which appears in § 30.7, are to be deleted.

(13 USC 302; and 5 USC 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-2A, August 4, 1975, 40 F.R. 42765)

Dated: September 4, 1979.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 27978 Filed 9-6-79; 8:45 am]

BILLING CODE 3510-07-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9098]

Airco, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Montvale, N.J. manufacturer and seller of industrial gases and welding products to cease, for a period of twenty years, from entering into, or enforcing any agreement that requires a distributor of industrial gases to purchase from Airco any part of its industrial gas requirements unless the initial term or renewal of such contract and the minimum period for termination falls within specified time frame. The firm is also prohibited from requiring a distributor to purchase industrial gases at particular locations, or as a condition of purchasing welding or other industrial gas products at the same or any other location; and from refusing to sell its products to a distributor because that distributor refuses to purchase from Airco a designated part of its industrial gas requirements at a particular location. Additionally, the order prescribes arbitration for any dispute arising from company's refusal to sell; and set forth the manner and form of such arbitration.

DATES: Complaint issued May 18, 1977. Decision issued July 31, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523–3601.

SUPPLEMENTARY INFORMATION: On Thursday, April 12, 1979, there was published in the **Federal Register**, 44 FR 21820, a proposed consent agreement with analysis In the Matter of Airco, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

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

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–5 Arbitration; 13.533–20 Disclosures; 13.533–45 Maintain records. Subpart—Cutting Off Access To Customers or Market: § 13.587 Selling competitive product at reduced or below cost price. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.635 Refusing sales to, or same terms and conditions. Subpart—Dealing On Exclusive and Tying Basis: § 13.670 Dealing on exclusive and tying basis; 13.670–10 Clayton Act, Sec. 3; 13.670–20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 3, 38 Stat. 731; 15 U.S.C. 14.)

James A. Tobin,

Acting Secretary.

[FR Doc. 79–27850 Filed 9–6–79; 8:45 am]

BILLING CODE 6750–01–M

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

16 CFR Part 13

[Docket C–2985]

Pendleton Woolen Mills, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Portland, Oreg. manufacturer of wool products to cease fixing, maintaining, or enforcing resale prices for its products; soliciting the identity of dealers who fail to conform to such prices; and taking adverse action against recalcitrants. Respondent is also prohibited from restricting the use of product trademarks or other identification in the sale or advertising of such products; and barred from suggesting retail prices for any product until April 20, 1982.

DATES: Complaint and order issued July 31, 1979.*

FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102 (415) 556–1270.

SUPPLEMENTARY INFORMATION: On Tuesday, May 22, 1979, there was published in the **Federal Register**, 44 FR 29676, a proposed consent agreement with analysis in the Matter of Pendleton Woolen Mills, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

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

Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1140 Cutting off supplies; § 13.1150 Penalties; § 13.1155 Price schedules and announcements; § 13.1160 Refusal to sell; § 13.1165 Systems of espionage; 13.1165–80 Requiring information of price cutting; 13.1165–90 Spying on and reporting price cutters, in general.

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

James A. Tobin,

Acting Secretary.

[FR Doc. 79–27851 Filed 9–6–79; 8:45 am]

BILLING CODE 6750–01–M

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

16 CFR Part 13

[Docket 9106]

Universal Training Service, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires eight affiliated vocational schools, headquartered in Miami, Fla., and five corporate officers to cease misrepresenting the prospective earnings, employment opportunities and demand for graduates of their respective courses; the effectiveness of their job placement service; and the extent of job placement assistance they provide to their graduates. They must furnish potential customers with prescribed disclosures concerning educational and other factors considered by employers in hiring; the job success of former graduates; and contracting party's right to cancellation and refund within the provided 14-day "cooling-off" period. Additionally, the schools are required to make restitution to former eligible students in a specified manner.

DATES: Complaint issued Jan. 11, 1978. Decision issued July 27, 1979.*

FOR FURTHER INFORMATION CONTACT:

S. Edward Combs, 1R, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree St., N.W., Room 1000, Atlanta, Ga. 30309. (404) 881–4836.

SUPPLEMENTARY INFORMATION: On Tuesday, April 24, 1979, there was published in the **Federal Register**, 44 FR 24080, a proposed consent agreement with analysis In the Matter of Universal Training Service, Inc., a corporation, and Universal Heavy Construction Schools, Inc., a corporation, and Universal Truck Drivers School, Inc., a corporation, and Universal Airlines Personnel Schools, Inc., a corporation, and Universal Motel Schools, Inc., a corporation, and Insurance Adjusters Schools, Inc., a corporation, and Universal Diesel and Construction Mechanic Schools, Inc., a corporation, and Universal School of Heavy Equipment Operations, Inc., a corporation, and E. McSwiggan & Associates, a partnership, and Edward McSwiggan, and Edward W. McSwiggan, Jr., and Gerald W. McSwiggan, and Agnes McSwiggan, individually and as officers or directors of each of the above-listed corporations and as a partner in E. McSwiggan & Associates, and Marilyn Anne McSwiggan, individually and as an officer of each of the above-listed corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

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

Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; 13.15–20 Business methods and policies; 13.15–245 Prospects; 13.15–275 Stock, product, or service; § 13.55 Demand, business or other opportunities; § 13.60 Earnings and profits; § 13.90 History of product or offering; § 13.115 Jobs and employment service; § 13.143 Opportunities; § 13.175 Quality of product or service; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.250 Success, use or standing. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–35 Employment of independent agencies; 13.533–45 Maintain records; 13.533–55 Refunds, rebates and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.677 Delaying or failing to deliver goods or provide services or facilities. Failing To Maintain Records: § 13.1051 Failing to maintain records. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1854 History of products; § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1935 Earnings and profits; § 13.1960 Free service; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts.

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

James A. Tobin,

Acting Secretary.

[FR Doc. 79-27849 Filed 9-6-79; 8:45 am]

BILLING CODE 6750-01-M

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

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Poison Prevention Packaging; Exemption of Methylprednisolone From Child-Protection Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission amends the child-resistant packaging regulations to exempt methylprednisolone in tablet form in packages containing no more than 84 mg. of the drug. (Methylprednisolone is a steroid oral prescription drug.) The exemption is issued because the low oral toxicity of the drug and the lack of adverse human experience associated with accidental ingestions indicate that child-resistant packaging for this product is not necessary to protect young children from serious personal injury or illness. The Upjohn Company had petitioned the Commission for the exemption (Petition PP 78–3).

DATE: The exemption is effective September 7, 1979.

FOR FURTHER INFORMATION CONTACT:

Sandra Eberle, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; phone (301) 492–6400.

SUPPLEMENTARY INFORMATION:

Background

The regulations issued under the Poison Prevention Packaging Act of 1970 (the "PPPA", 15 U.S.C. 1471–1476) establish child protection packaging requirements (also called "special packaging") for human oral prescription drugs in order to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting these substances (16 CFR 1700.14(a)(10)).

On November 25, 1977, the Consumer Product Safety Commission received a petition from the Upjohn Company to exempt the Medrol Dosepak containing twenty-one 4 mg. methylprednisolone tablets from the child-resistant packaging requirements. Methylprednisolone is a steroid used in the treatment of a number of conditions, including certain types of endocrine disorders, arthritis, and skin conditions. The petition was supported by packaging specification, a description of the product, test reports relating to the toxic characteristics of methylprednisolone, and copies of

letters of complaint that Upjohn had received from persons who had difficulty opening the child-resistant packaging. After evaluating the material that was originally submitted, the Commission's staff requested additional data from the petitioner concerning the oral toxicity of methylprednisolone. These data were submitted on April 4, 1978.

Methylprednisolone is currently marketed by Upjohn in a child-resistant plastic box that contains twenty-one 4 mg tablets that are packaged on a cardboard sheet with a foil backing and a plastic blister covering each tablet.

Although it is known that prolonged use of steroids may produce adverse effects on the hormonal and lymphatic systems, there appears to be little or no effect after a single large dose. The National Clearinghouse for Poison Control Centers reports 29 ingestions of methylprednisolone by children under five years of age from 1969 through 1976. There were no reported symptoms caused by these ingestions. The information available from the National Electronic Injury Surveillance System contains no reports of methylprednisolone poisonings to children under five years of age during 1977 and 1978.

In addition, animal toxicity studies indicate the low toxicity of the product. The oral LD–50 (median lethal dose) in rats is over 12 gm per kg. Extrapolating this dose to humans indicates that a typical lethal dose for a 10 kg. (22.05 lb) child would be in excess of 120 grams, which is over 1400 times as much of the drug as is in the package to which the requested exemption applies.

The Commission also solicited the opinion of the Food and Drug Administration (FDA) on the exemption request. Based on the lack of reported adverse human experience associated with accidental ingestion and the low acute oral toxicity of the drug, FDA concluded that the exemption should be granted.

The Commission also solicited comments from its Technical Advisory Committee on Poison Prevention Packaging. Of the 16 members that commented on the petition, 14 recommended granting the exemption, and two recommended denial due to their concern for the potentially harmful effects to the hormonal and lymphatic system. (However, as discussed above, these adverse effects appear to be associated only with prolonged use of this type of product and not with large single doses.)

Based on its evaluation the available toxicity information and human experience data, the Commission preliminarily found that this drug, in tablet form and in packages containing not more than 84 mg of the drug, does not pose a risk of serious personal illness or injury to children. The Commission therefore proposed an exemption from the poison prevention packaging standards for methylprednisolone in that form and dosage (43 FR 47738; October 17, 1978). In order that the requested exemption will apply to as many similarly situated manufacturers as possible, the proposed exemption was phrased in terms of the generic name and total amount of the drug that is present in the package rather than in terms of a specific tablet dosage or number of tablets.

Comments on the Proposal

The Commission received 9 comments in response to the proposed exemption for methylprednisolone. The comments and the Commission's response are discussed below.

1. *Support of the exemption.* Three commenters supported the exemption as proposed. Two of these commenters also stated that some consumers have difficulty with child-resistant closures and recommended that the option of noncomplying packages be permitted for all regulated products. Although this latter comment is not relevant to whether the exemption should be issued, the Commission notes that the option to use noncomplying packaging already exists. (Section 4(a) of the act allows a manufacturer or packager of a regulated non-prescription product supplied in special packaging to produce a single size of the product in conventional packaging provided it is conspicuously labeled, "This package for households without young children." In addition, section 4(b) allows prescription drugs subject to a standard to be dispensed in conventional packaging upon the request of the prescribing physician or the purchaser.)

Two of these commenters also suggested that the responsibility for the protection of young children from potentially harmful products rests with the parents of the children. They further contended that special packaging standards place an unnecessary burden on responsible parents and individuals without children.

These comments are not relevant to the issue of whether the proposed exemption should be issued, since they contend that no substance should be in special packaging. However, the Commission notes that available evidence indicates that parental negligence is not the primary cause of poisonings. See the Senate Committee on Commerce report concerning the PPPA [S. Rep. No. 91–845, 91st Cong., 2d Sess. 3, (1970)]. Also, there have been many cases where children have gained access to potentially harmful substances while visiting or being visited by persons who do not have young children in their household.

2. *Extension of the exemption to include other similar products.* A manufacturer of prednisone requested that the Commission also exempt that product. Prednisone is a similar steroid prescription drug, used in the treatment of similar maladies. Since the manufacturer contends that a 5 mg dose of prednisone would be equivalent to 4 mg of methyprednisolone, it was suggested that packages containing no more than 105 mg prednisone be allowed an exemption from the requirement for special packaging.

In evaluating petitions requesting the exemption of particular substances from regulations under the PPPA, the Commission examines the data provided by the petitioner as evidence that an exemption for that particular substance is justified. If, after consideration, the Commission concurs than an exemption is justified, it then attempts to state the exemption in generic terms so that the exemption will apply to other manufacturers of the same substance when packaged in similar amounts. However, it is necessary that such substances be chemically identical to the petitioned substance in order to insure that the exemption for them is equally justified.

Although the Commission is aware of the similarities between prednisone and the exempted product, the Commission cannot issue an exemption for prednisone without a separate evaluation of that substance.

If the commenter wishes, it could submit a separate petition for an exemption for prednisone. The petition should comply with the applicable Commission regulations (16 CFR Part 1702).

3. *Disapproval of the exemption.* One commenter did not agree with the proposed exemption since he believes that there is insufficient evidence to rule out the possibility that an acute overdose of steroid drugs might produce some long-term effects on the hormonal or reproductive systems of young children. He further stated that an exemption was not necessary since conventional packaging is available upon request.

When promulgating a regulation under the PPPA, the Commission must find "that the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required

to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance" (section 3(a)(1) of the act, 15 U.S.C. 1472(a)(1)). However, in issuing the regulation for oral prescription drugs, the FDA (which previously administered the PPPA) decided that the most efficient way to implement the act was to issue a regulation applicable to all oral prescription drugs without analyzing the degree of risk associated with any particular drug. Since some drugs which do not necessarily pose such a hazard would also be included under this regulation, provision was made for petitioning for exemption of such products. Therefore, when considering an exemption request for an oral prescription drug, the Commission evaluates the request using the criteria for initially promulgating a regulation; that is, it decides whether the information about the product supports a finding that it does not pose a hazard to young children, and, on that basis, decided to grant or deny the petition.

In this case, the available data indicate that an acute overdose of this drug would not be expected to produce any serious harmful effects. No prolonged hormonal effects would be expected since the results from several animal studies indicate that there is a rapid (within hours) return of normal hormonal function even after massive acute dose of steroid drugs have been administered. Since the total amount of drug in the entire package is only a small fraction of the doses used in the animal studies, it would be expected that minimal hormonal effects would occur, with a rapid return to normal function. These expectations are further confirmed by the known pharmacological and physiological effects of these hormones in humans. The Commission therefore concludes that an exemption for this drug is justified.

Another commenter recommended that all drugs should be packaged in child-resistant packaging and that those individuals who are unable to use special packaging could repackage the drug themselves in conventional packaging.

However, as discussed above, the Commission may issue special packaging standards only where they are required in order to protect children from serious personal injury or serious illness. In considering exemption requests, the Commission applies these criteria.

The decision to grant an exemption is based on toxicity data and available human experience data regarding the particular product in question. In the case of methylprednisolone, the available data indicate that in tablet form and in the dosage specified in the exemption, this drug does not pose a risk of serious personal illness or injury to children. Therefore, the Commission believes an exemption is warranted.

Conclusion

Having considered the petition, the comments on the proposal, human experience data as reported to the National Clearinghouse for Poison Control Centers, and medical and scientific literature, and having consulted with the Technical Advisory Committee on Poison Prevention Packaging as required by section 3 of the Poison Prevention Packaging Act of 1970, the Consumer Product Safety Commission concludes that special packaging is not required to protect children from serious personal injury or illness resulting from handling, using, or ingesting methylprednisolone in tablet form in packages containing not more than 84 mg of the drug.

Accordingly, under provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601; secs. 2(4), 3, 5; 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474 and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573; sec. 30(a); 86 Stat. 1371; 15 U.S.C. 2079(a)), the Commission amends 16 CFR 1700.14 by adding a new paragraph (a)(10)(xiv) as follows (the introductory portion of paragraph (a)(10), although unchanged, is included for context):

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a particular licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

* * * * *

(xiv) Methylprednisolone in tablet form in packages containing not more than 84 mg of the drug and containing no other substance subject to the provisions of this section. (Secs. 2(4), 3, 5, Pub. L. 91–601, 84 Stat. 1670–1672 (15 U.S.C. 1471(4), 1472, 1474)).

Effective date. Since this amendment grants an exemption, the requirements of 5 U.S.C. 553 for a delayed effective date are not applicable. Therefore, this amendment is effective September 7, 1979.

Dated: August 31, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79–27938 Filed 9–6–79; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 271

[Docket No. RM79–19]

Treatment of Certain Production-Related Costs for Natural Gas To Be Sold and Transported Through the Alaska Natural Gas Transportation System; Public Hearing

August 29, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Public Hearing.

SUMMARY: On August 24, 1979, the Federal Energy Regulatory Commission (the Commission) issued Order No. 45 in Docket No. RM79–19 (44 FR 51554, September 4, 1979). By that Order the Commission amended certain of its interim regulations promulgated under the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95–621, 92 Stat. 3353 (1978). The amendments permit producers or other first sellers of natural gas which is produced at Prudhoe Bay, Alaska for transport through the Alaska Natural Gas Transportation System to apply under section 110 of the NGPA for an allowance for the removal of carbon dioxide below a specified level. In addition, the Commission's Order permits the producers and other first sellers to apply under section 502(c) of the NGPA for relief or a waiver of Commission regulations with respect to other production-related costs borne by them.

Section 502(b) of the NGPA requires, to the maximum extent practicable, an opportunity for the oral presentation of data, views, and arguments prior to the effective date of any order (with certain exceptions) issued under the NGPA. In order to comply with this requirement, a public hearing on Order No. 45 will be held in Washington, D.C. on Thursday, September 27, 1979.

DATES: The hearing will be held at 10 a.m. on Thursday, September 27, 1979.

ADDRESSES: The hearing will be held at the Federal Energy Regulatory Commission, Hearing Room "A," 825 North Capitol Street NE., Washington, D.C.

Requests to participate in the hearing should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 and should be made no later than September 20, 1979. Requests should reference Docket No. RM79–19 and should indicate the amount of time required for the oral presentation and the telephone number at which the person making the presentation can be reached.

Persons participating in the public hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information three days before the hearing and will be available at the Commission on the morning of the hearing.

FOR FURTHER INFORMATION CONTACT: John Conway, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION: The hearing will not be a judicial or evidentiary-type hearing, and there will be no cross-examination of persons presenting statements. However, staff may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be available in the public file for this proceeding, Docket No. RM79–19, in the Commission's Office of Public Information.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–28091 Filed 9–6–79; 8:45 am]

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18 CFR Parts 157, 281, 284, Subchapter H, and Subchapter I

[Docket No. RM79–75; Order No. 46]

Sales and Transportation of Natural Gas

Issued: August 30, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending and making final certain of the interim regulations published December 1, 1978, concerning the transportation of natural gas by interstate pipelines on behalf of intrastate pipelines and local distribution companies.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Robert C. Platt, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8433.

Final Part 284 Regulations Under the Natural Gas Policy Act of 1978; Order amending Part 284 and issuing Subparts A, B, C, and E as final regulations (Issued August 30, 1979).

I. Background

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations implementing the Natural Gas Policy Act of 1978 (NGPA) (43 F.R. 56448). Subparts A, B, and D of Part 284 of the interim rule implemented sections 311(a) and 312 of the NGPA. In the final rule, Subparts B, C, and E implement these sections.[1]

Section 311(a)(1) allows the Commission to authorize the transportation of natural gas by interstate pipleines on behalf of intrastate pipelines and local distribution companies (subpart B of the final rule). Section 311(a)(2) allows the Commission to authorize the transportation of natural gas by intrastate pipelines on behalf of interstate pipelines and local distribution companies served by interstate pipelines (subpart C of the final rule). Section 312 allows the Commission to authorize the assignment of natural gas by intrastate pipelines to interstate pipelines or local distribution companies (subpart E of the final rule).

Oral comments were made at public hearings on these subparts, and written comments were received. Several suggestions made in the comments have been incorporated in the final rule.

II. Discussion of Comments and Amendments

1. *What are the jurisdictional consequences of performing activities authorized by the Commission under sections 311 and 312 of the NGPA?*

Many parties requested clarification of the jurisdictional consequences of performing section 311 or 312 activities. Most simply requested that the regulations specifically reflect the language of section 601. It is our conclusion that sales, assignments and transportation services authorized by the Commission under sections 311 or 312 are clearly exempted from the Commission's Natural Gas Act (NGA) jurisdiction by the operation of section 601(a) of the NGPA.[2] The Commission has reflected this statutory language in the final rule in § 284.3 (a) and (b).

However, the NGPA is silent on the jurisdictional consequences of participating in the construction and operation of the facilities necessary to effectuate transportation authorized by the Commission under section 311(a). It is our view that a facility is not subject to NGA jurisdiction if it is used exclusively for transportation authorized under section 311(a);[3] thus, no certificate is required by section 7 of the NGA. This position is set out in the final rule in § 284.3(c).

One comment requested that if authorization under section 311(a) is found not to exist, the parties to such a transaction be allowed to cease operations without having NGA jurisdiction attach if the transaction was entered into in good faith. This suggestion is rejected. Section 601 removes the Commission's NGA jurisdiction from a transaction otherwise subject to NGA jurisdiction only if the transaction is "authorized" by a Commission rule or order. Section 601 does not remove the Commission's NGA jurisdiction from a transaction otherwise subject to NGA jurisdiction if the parties erroneously, in good faith, believed they had section 311(a) authorization, when in fact such authorization did not exist.

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[1] Because certain rules of general applicability were thought to be most conveniently placed at the beginning of Part 284, Subpart A of the interim rule is now issued as Subpart B, Subpart B has become Subpart C, etc. Subpart F has remained as Subpart F.

[2] Throughout Part 284, language referring to Commission authorization has been added, to emphasize the fact that transactions can take place only with Commission authorization, whether or not that authorization entails prior approval of the transaction.

[3] If the facility also transports natural gas in interstate commerce, not authorized by the Commission under section 311(a), NGA jurisdiction attaches to the facility. However, the mere fact that the volumes of natural gas were transported under section 311(a) for one part of the transportation arrangement does not render all the facilities which transport such gas to be non-jurisdictional under the NGA. For example, if an interstate pipeline must construct facilities to reach out to connect with an intrastate pipeline system to enable the interstate pipeline to receive into its system supply certain volumes transported by the intrastate pipeline under section 311(a)(2), those interstate pipeline facilities are subject to the Commission's jurisdiction under the NGA because the transportation by the interstate pipeline through those facilities is not authorized under section 311(a)(1); i.e., the transportation by the interstate pipeline is "on behalf" of itself, not any other entity. Thus, it is the nature of the transportation authorization that determines whether facilities used for that transportation are subject to NGA jurisdiction. *See* Natural Gas Pipeline Corporation of America, Docket No. CP79–200.

However, the Commission will consider the transporter's good faith, and the absence of willfull misconduct, in determining whether continuing jurisdiction attaches.

Another related issue is the extent of NGA jurisdiction over those transactions which could go forward under section 311(a)(1), but for some reason the interstate pipeline desires to obtain a certificate under section 7 of the NGA. The Commission will not issue such certificates unless the reasons for not transporting pursuant to section 311(a)(1) are extraordinary. It shall be our policy that authorization under section 311(a)(1) of the NGPA should be utilized wherever possible, without resort to certification under section 7 of the NGA. (*See*, ONG Western, Inc., Docket No. CP79–133.)

2. *Self-execution:* A. *Resale requirement.*—Although the issue was not addressed in the comments, the Commission has decided to limit the self-execution of section 311(a) (1) and (2) transportation arrangements to those arrangements in which the final recipient of the natural gas has acquired the natural gas for its system supply and will resell the gas in accordance with its applicable curtailment plan.[4] Sections 284.102(b)(1)(ii) and 284.122(b)(1)(ii) are designed to encourage transportation of gas to be used in system supply by allowing these transactions to occur without prior Commission approval. Thus, Subparts B and C of the final rule do not authorize transportation directly to end-users unless the transportation is specifically approved by the Commission.[5]

In Order No. 30, issued May 17, 1979, (44 FR 30323, May 25, 1979) the Commission promulgated Subpart F of Part 284 to authorize the transportation of natural gas directly to eligible end-users to displace fuel oil. These regulations were, in part, issued pursuant to section 311(a), and are a further exercise of the authority granted to the Commission in section 311(a). Order No. 30 constitutes the only exercise of the Commission's power to grant section 311(a) self-executing authorization for transportation arrangements other than for system supply.

One additional facet to section 311(a)(2) transportation should be pointed out. In order to qualify to transport under section 311(a)(2), the transportation must be performed by an "intrastate pipeline" within the meaning of section 2(16) of the NGPA. However, that definition would seem to require that the prospective section 311(a)(2) transporter be "engaged in natural gas transportation * * * which is not subject to the jurisdiction of the Commission under the Natural Gas Act." If a *new* pipeline company is planned, it would not fit within this literal definition of "intrastate pipeline" until it first engages in transportation. Consequently, the proposed pipeline company could not engage in section 311(a)(2) transportation unless it establishes that it is engaged in nonjurisdictional transportation. It may so establish by obtaining a declaratory order from the Commission that it qualifies as an intrastate pipeline for section 311(a)(2) transportation.[6] The Commission's interpretations procedure under 18 C.F.R. 1.42 is also available for this purpose. However, it should also be noted that if a corporate entity qualifies as an intrastate pipeline under section 2(16) it will retain that identity for its entire system even if it constructs a new portion of its system to be used exclusively for section 311(a)(2) transportation.

B. *Facilities.*—Several comments indicated that the interim rules did not address the question of the cost treatment of facilities. In Docket No. RM79–43 (44 FR 30331, May 25, 1979), the Commission issued interim rules allowing section 311(b) and 312 facilities owned and operated by an interstate pipeline to be authorized under its budget-type certificate. Final rules will soon be promulgated in that docket.

C. *"On behalf of".*—It is our view that the phrase "on behalf of", which is found in both sections 311(a)(1) and (2), should be broadly construed to give the Commission the necessary flexibility to carry out the Congressional objective of integrating the intrastate and interstate markets.[7] Obviously, some nexus is required between the transporter and the party on whose behalf the transaction will be conducted. That nexus may be an agency relationship, or having title to the transported gas reside, during the transaction, in the party on whose behalf the transportation is conducted. For those parties who wish to determine if a particular transaction meets the statutory requirements of section 311, the Commission may be requested to provide interpretations pursuant to section 502(c) of the NGPA.[8] See the Interim Regulations issued on August 7, 1979, in Docket No. RM79–65 (44 FR 48171, August 17, 1979) for the procedures for providing interpretations and interpretative rules under the NGPA.

3. *Interstate pipeline transportation.*—Several comments requested that the regulations be amended to authorize transportation services between interstate pipelines without prior Commission approval. Some comments expressed the opinion that the authority to do so lies in the NGA; that NGA certification can be dispensed with, or "blanket" authorization can be granted; or that temporary authorization could be granted under expedited procedures, which later could be changed to permanent certification.

These suggestions are rejected. Section 7 of the NGA requires certificates of public convenience and necessity for transportation arrangements between interstate pipelines. The NGPA does not supersede these requirements, although the Commission may examine, at a future date, the desirability of issuing "blanket" section 7(c) transportation certificates.

One comment suggested that interstate pipelines should be *required* to transport gas for local distribution companies, at least on a best efforts basis, up to the local distribution company's daily contract demand quantity. This comment indicates that mandatory transportation service is necessary to encourage local distribution companies to develop additional natural gas resources.

There is no indication in section 311(a)(1), or in its legislative history,

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[4] Of course, the requirement of resale will not include those volumes utilized by the final recipient of the gas for compresser fuel or line loss.

[5] The Commission wishes to scrutinize such transactions except as otherwise authorized by our regulations.

[6] See the Declaratory Order issued in Texas Sea Rim Pipeline, Inc., Docket No. CP79–117, on February 16, 1979.

[7] The report of the Ad Hoc Committee explained the purpose of these sections: The amendment facilitates development of a national natural gas transportation network without subjecting intrastate pipelines, already regulated by State agencies, to FPC regulation over the entirety of their operations. Instead the intrastate pipelines are immunized from State or Federal regulation as common carriers and from FPC regulation under the Natural Gas Act. The intrastate pipelines are only subjected to FPC regulation under this legislation to the extent the intrastate pipeline is involved in an authorized sale of natural gas to interstate pipelines or an authorized transportation of natural gas on behalf of interstate pipelines. Other operations of an intrastate pipeline are not intended to be subject to FPC regulation by reason of this amendment. (H.R. Rept. No. 543, 95th Cong. 1st Sess. 45 (1977).)

[8] For example, an intrastate pipeline selling natural gas to an interstate pipeline under section 311(b) may contract with another interstate pipeline to transport the gas to the interstate pipeline purchaser, with title passing at the point of delivery to the purchaser. The intermediary interstate pipeline would be able to transport the gas under section 311(a)(1) authorization. Conversely, if the interstate pipeline purchaser contracted for the transportation, and if title passed to the purchaser at the point of delivery to the intermediary transporting interstate pipeline, the nexus would not be present and section 311(a)(1) authorization would not be available.

that interstate pipelines were intended to be required to render transportation services. Indeed, section 602(b)(2) specifically states that no person shall become a common carrier by reason of section 311(a) transportation. Thus, the Commission is without authority to require transportation services by interstate pipelines solely by reason of section 311(a)(1).

4. *Rates and Charges for Interstate Pipelines.*—Two comments suggested that the allowance of one cent per Mcf for out-of-pocket expenses is insufficient to cover the costs of participating in section 311(a)(1) transportation services. The Commission believes that the one cent allowance covers the level of out-of-pocket expenses normally incurred by interstate pipelines in rendering transportation service through its otherwise unused capacity. Later, if it becomes apparent that interstate pipelines can consistently show that the one cent allowance is insufficient, the limit can be changed. There should be no hardship as a result of the one cent allowance, because the allowance is merely a presumption that there will be out-of-pocket expenses of one cent per Mcf. If there are in fact greater expenses, the interstate pipeline will be able to recover them upon a showing to the Commission.

Other comments objected to the requirement that revenues in excess of out-of-pocket expenses must be credited to Account 191. In particular, one commenter stated that the requirement to credit Account 191 is inconsistent with setting rates based on test periods. The commenter argued that since the amount of gas transported may vary during the period a rate is in effect, there is no basis to assume that section 311(a)(1) service will result in more total revenues than the rate was designed to provide. The commenter stated further that, due to inflation, even if there is an increase in revenues there is no basis to assume that the increase will not be offset by increased costs. The Commission believes that the proper forum to address these problems is the interstate pipeline's next rate case. Consequently, the procedure for treating section 311(a)(1) revenues will not be changed.

Several comments suggested that the "out-of-pocket" limitation would not induce interstate pipelines to participate in section 311(a)(1) transactions, because there is no incentive for interstate pipelines to participate. However, the Commission is concerned that if an incentive is provided for section 311(a)(1) transactions, that very incentive may operate to make these transactions so attractive that they would have a deleterious effect on other short term transportation arrangements, as well as purchases for system supply. The Commission is studying the relationship between the rate design of all transactions which can be used to achieve the objective of opening up intrastate supplies of natural gas to the interstate market. At the completion of that study, the Commission will re-examine the necessity of providing an incentive for section 311(a)(1) transactions. In the meantime, the flow back requirement will remain unchanged.

It was apparent from these and other comments that the flow back procedures in § 284.103(d) were confusing. Accordingly, this section has been redrafted to more clearly express the intention that the one cent allowance is optional with the transporting interstate pipeline. If the interstate pipeline chooses, it may forego the allowance and demonstrate its out-of-pocket expenses to the Commission. The Commission will not require a flow back of any amount the interstate pipeline has established as representative of out-of-pocket expenses.

One comment objected to the flow back procedure of the rule becaue the flow back is system-wide even for those interstate pipelines that do not set their rates on a system-wide basis. In such a situation, it was stated that certain customers of such an interstate pipeline will receive flow back credits for transportation costs that the customers have never incurred. Although this recommendation may be appropriate in certain rare situations, the Commission feels that the general rate proceeding for the interstate pipeline is the proper place for this issue to be addressed. To attempt to address this specific refund question in this regulation would be difficult to do, given the unique fact situations involved.

One comment requested that the regulations contain a provision to set a uniform standard for determining fuel use and line loss, and a prohibition disallowing an interstate pipeline from requiring a shipper to sell to it any portion of the shipper's transportation volumes. Adopting these provisions would tightly control the terms of section 311(a)(1) contracts, and would have the effect of requiring all section 311(a)(1) compensation to be paid in a form that could be flowed back to the pipeline's customers. The Commission feels that any possible advantages to the pipeline's customers in adopting this approach would be offset by the disadvantages of strait-jacketing the parties into contracts which may be unrealistic for a particular set of circumstances. Given the importance of maximizing participation in section 311(a)(1) transactions, these limitations will not be adopted.

The Commission has amended § 284.103(c)(2) to indicate that comparison can be made to only those rate schedules filed by the interstate pipeline transporting pursuant to section 311(a)(1). Rate schedules filed by another interstate pipelines cannot be used.

5. *Terms and Conditions Imposed by the Commission on Section 311(a) Transactions.*—Several comments suggested that the two-year term is too short. One suggested that an extension past two years be self-executing. Another recommended that the two-year review by the Commission (which is predicated on the need to examine pipeline transportation capacity) be replaced with a program limiting transportation on a priority basis: section 311(a)(1) transportation volumes in excess of contract demand quantities would receive the lowest priority, and section 311(a)(1) volumes within contract demand quantities would receive the next to lowest priority. Yet another comment suggested that "best efforts" section 311(a) transportation would solve the capacity problem.

The first suggestion has already been met in § 284.105. Extensions of two years are self-executing unless the Commission decides that an extension is not in the public interest.

The other commenters' suggestions are rejected, because the Commission continues to believe that it is appropriate to review long-term transportation arrangements in order to allow an evaluation of the impact of such arrangements on the capacity of interstate pipelines to meet the needs of its customers.

Other comments suggested (1) the term "detriment or disadvantage" in § 284.104(a) be clarified; and (2) the word "prospectively", which was used in §§ 284.104(c), 284.124(c), 284.145(d), and 284.164(c) of the interim rule, be clarified to indicate that executed contracts would not be modified by future Commission action.

The phrase "detriment or disadvantage" is sufficiently clear. The Commission intends this phrase to include actual curtailment of natural gas service as well as any other adverse effect upon an existing customer or end-user.

The term "prospectively" is also sufficiently clear. Under certain circumstances the Commission may promulgate additional terms and

conditions which establish requirements for future deliveries under contracts entered into before the promulgation of the additional requirements. Of course, the parties to the contract may provide for the termination of the contract in the event of a changed regulatory framework. In view of the fact that each transaction authorized under Part 284 should be equally subject to modification by the Commission, §§ 284.104(c), 284.124(c), 284.145(d), and 284.164(c) have been deleted and a new § 284.5 added to replace them.

One comment requested that a procedure be implemented whereby an intrastate pipeline could secure temporary authorization, pending final Commission approval, to commence long-term transportation on behalf of interstate pipelines and local distribution companies. Since an intrastate pipeline can arrange for short-term transportation without Commission action, this comment's request has already been met. During the two-year self-implementing period, the intrastate pipeline can apply for long-term approval.

6. *Rates and Charges for Intrastate Pipelines.*—One commenter expressed concern that the amount required to recover all "service" costs listed in § 284.123(b)(1)(i)(A) would be included in the rates authorized by the regulation. Since § 284.123(d)(1) presumes that rates set in accordance with § 284.123(b)(1) are fair and equitable, this concern is unfounded.

Several comments suggested that an intrastate pipeline be able to base its rate on the comparable tariffs of interstate pipelines on file with the Commission. This suggestion is rejected. It would be unreasonable to allow an intrastate pipeline to charge a rate based on the tariff of an interstate pipeline system designed for natural gas transportation of much larger volumes over much larger volumes longer distances. The costs of operation of intrastate pipelines and interstate pipelines are simply not comparable. Intrastate pipelines will be reasonably compensated under the present regulations.[9]

One comment suggested that a pipeline without a comparable tariff on file with a state regulatory agency be allowed to file one, and be able to use that tariff to set its section 311(a)(2) transportation rate, pending the approval of the tariff by the state regulatory agency. This suggestion is also rejected. The intent of the regulations is to set section 311(a)(2) rates by reference to tariffs applicable to other intrastate transportation; absent such a tariff the Commission will set the rate. It would be unwise for the Commission to delegate to a state regulatory agency the power to set the rate to be charged to an interstate pipeline for section 311(a)(2) transportation. The state agency may use different criteria for setting a section 311(a)(2) interstate rate than it would in setting intrastate rates, since its concerns would necessarily be different in the two situations. The final rule in § 284.123(b)(1)(ii) has been amended to make clear that only a "then effective" tariff filed by the transporting intrastate pipeline may be used for comparison.

The words "then effective" refer to the point in time of the deliveries of the natural gas. Thus, if the contract permits, an intrastate pipeline can raise or lower its rates after the transaction is begun, if the applicable tariff rate is changed by the appropriate state regulatory agency. Of course, as stated above, the tariff must be of general applicability, i.e., it must apply to city-gate intrastate service, and it must be the tariff under which the transaction was begun.

Another commenter suggested that a rate set by Commission order for a specific transaction take precedence over any different rate that could be derived from one of the approved formulas. This suggestion has been adopted in § 284.123(b)(2). Specific Commission action in regard to a particular transportation service overrides a rate determined by a formula set out in the regulations.

This commenter also requested the rule be amended to specify that the presumption regarding the treatment of revenues in § 284.123(c) applies only to *future* rate proceedings. This revision is unnecessary; the regulation clearly indicates the presumption applies only to future proceedings.

A state regulatory agency has concluded that the presumption contained in § 284.123(c) impermissibly reaches into the rate-making jurisdiction of the state agency and thus should be deleted. The presumption merely reflects an assumption on the part of the Commission that a state regulatory agency will not ignore the intent of Congress to prevent double recovery for section 311(a)(2) transportation arrangements.[10] Thus, the rule will not be changed.

Another commenter requested that § 284.123(c) be amended to clarify the Commission's intention that it does not require the state agency to investigate each section 311(a)(2) transaction. Such investigations are not required under § 284.123(c). Indeed, it would be impermissible for the Commission to demand that they be made.

This commenter further requested an amendment to § 284.123 to provide that there would be no refund liability on the participants to a section 311(a)(2) transaction if a rate set in good faith was later determined not to be "fair and equitable." The Commission cannot accept this position. Accordingly, a specific refund obligation has been included in the final rule in § 284.2(a) for amounts in excess of the amounts allowed by the regulations. An interest rate obligation has also been included in § 284.2(b).

One comment suggested that since not all state agencies regulate transportation rates, a transportation rate set by arms-length contractual negotiations should be defined as "fair and equitable." Adopting this suggestion would obviate the need for rate approval by any public body, and is rejected.

Section 284.123(b)(1)(i)(B) has been amended to identify more clearly the allowance upon which an intrastate pipeline may elect to base its rate. Certain state regulatory agencies do not set intrastate transportation rates directly, but rather grant natural gas distributors an allowance to pay for transportation by the intrastate pipeline to the city gate. The rule refers to this allowance.

7. *Assignments.*—One comment requested that all section 312 assignments be made self-executing. This request will not be granted. The general rule was specifically intended to limit the kinds of gas which can be assigned without Commission approval to that which is sold at a price below the section 102 price. To make the rule completely self-executing would eliminate such restraints.

Two comments requested clarification of the status of severance taxes under section 312 assignments. Specifically, they request that the rule be amended to allow the price to exceed the new gas price to the extent that the excess reflects allowable section 110 charges. One commenter noted that the new gas price limitation will prohibit the assignment of certain stripper well gas, if the price of that gas exceeds the price

[9] Section 311(a)(2)(B)(i) requires intrastate pipeline rates to "not exceed an amount which is reasonably comparable to the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service." Our regulations at §§ 284.123 and 284.001(b) meet this requirement by requiring section 311(a)(2) transportation rates be established on a cost-of-service basis, as are interstate pipeline rates.

[10] See p. 109 of the Joint Explanatory Statement of the Committee on Conference.

for new gas. This commenter is correct. At this time, however, the Commission believes that the section 102 price limitation should reflect all costs associated with the natural gas contract to be assigned. Although specific Commission authorization will be required for the assignment of certain natural gas contracts, we feel that some control should be exercised over an assignment in which the assignee pays a total price which exceeds the section 102 price.

A commenter requested that intrastate pipelines assigning natural gas contracts be given an allowance of one cent per Mcf for transportation costs under § 284.164(a); and, if the pipeline can show costs in excess of one cent per Mcf, it should be allowed that also. This suggestion will not be adopted. The rates for the transportation of natural gas by an intrastate pipeline in association with a section 312 assignment is covered by § 284.123, which covers the rates of a section 311(a)(2) transportation. No special treatment is required for transportation in connection with section 312 assignments.

One commenter has detected two citation errors in § 284.164 (a) and (b) which have been corrected.

8. *Reporting Requirements.*—One commenter states that the data required by § 284.126(d) is unnecessary, except for the information regarding total revenues. The data requirements of § 284.126(d) will be retained in order to give the Commission a complete picture of section 311(a)(2) transactions. Further, this commenter detected a citation error in § 284.126(a)(3)(v)(A) which has been corrected.

A state regulatory agency requested that copies of the filings required by § 284.165 should be sent to the appropriate state regulatory agency and the intrastate pipeline's customers. This proposal has been adopted in part, in § 284.165(a), to keep the state regulatory agency informed. It would be unduly burdensome to require copies to be sent to the customers of the intrastate pipeline.

The following two amendments are made on the basis of the Commission's experience in monitoring these transactions. First, volumes will be required to be reported in MMBtu's rather than Mcf's because MMBtu's are used throughout the NGPA. (See § 284.4(a).) Second, summary reports must be filed within 48 hours of the commencement of the transaction. (See § 284.4(b).) This requirement has been adopted because, at times, there is an urgent need to know what transactions are taking place and this need is not satisfied by the presently existing reporting requirements.

9. *Definitions.*—Section 284.128 of the interim rule (§ 284.1(b) of the final rule) limits the definition of "appropriate state regulatory agency" to mean a state agency which regulates rates and charges for transportation by the intrastate pipeline "on a cost-of-service basis." One commenter indicated that this definition may exclude some state agencies.

This evaluation is correct. Nevertheless the rule will not be changed in regard to rates. If a state agency does not use a cost-of-service basis for rate setting, the intrastate pipeline company should be required to come to the Commission for approval of a "fair and equitable" rate. The cost-of-service requirement does not apply to matters other than rates, such as the surplus gas determination under § 284.163(a). Through this definition, it is assured that all section 311(a)(2) rates will be cost based.

Two other comments requested a definition of "transportation" to include "exchange, backhaul or other method of transportation." Such definition of "transportation" is included in the final rule, in § 284.1(a). A large portion of the transportation authorization under the NGA is actually transportation by displacement or exchange. To include exchange in the definition of transportation would maximize the amount of gas moving into interstate commerce. Conversely, to limit Subpart B and C transportation to the physical movement of gas volumes would minimize the impact of section 311(a). Defining an exchange to be within the definition of transportation does not conflict with section 2(20) of the NGPA (which defines "sale" to include exchange) because an exchange may have aspects of both transportation and a sale.

One electric utility requested a definition of "intrastate pipeline company" to include not only those entities which actually own facilities, but also those which have contracts for the transportation of natural gas. This commenter states that without such a definition, it cannot dispose of natural gas which it has committed itself to purchase, even though it no longer needs the gas due to conversion to alternate fuels. Another commenter requested that those companies which hold NGA section 7(f) exemptions be declared intrastate pipeline companies. The requested definitions relating to intrastate pipeline companies would be in contravention of section 2(16) of the NGPA, and thus cannot be adopted.

III. Public Procedures and Effective Date

The final regulations in Subparts B, C, and E of Part 284 were originally proposed for comment in November, 1978, and issued as interim regulations (as Subparts A, B, and D) on December 1, 1978 (43 FR 56448, Dec. 1, 1978). For 60 days thereafter comments were received and during that period public hearings were held on these regulations. By this process the Commission complied with the provisions of section 502(b) of the NGPA which requires that "[t]o the maximum extent practicable," an opportunity for the oral presentation of data, views, and arguments be afforded for certain regulations under the NGPA. The amendments to Part 284 contained in this order rest upon considerations given to the information received during the above described notice, comment, and hearing process. Accordingly, the Commission finds that further notice and public procedure on these rules is unnecessary and impractical and that good cause exists to dispense with additional notice and procedure, and to make subparts A, B, C, and E of Part 284, effective in 30 days as final regulations. those transactions entered into before the effective date of these final regulations are subject to the revisions but only with respect to deliveries after the effective date. The revisions made herein are merely clarifications of existing Commission policy, with the exception of the reporting requirements.

(Natural Gas Act, as amended, 15 U.S.C. 717, *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.;* Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.;* E.O. 12009, 42 F.R. 46267.)

In consideration of the foregoing, Subparts A, B, C, and E of Part 284 of Subchapter I, Chapter I, Title 18, Code of Federal Regulations, are promulgated as final regulations and amended as set forth below. Subparts D and F of Subchapter I, and Part 157 of Subchapter E, Chapter I, Title 18, Code of Federal Regulations, are amended as set forth below, effective 30 days from the date of issuance of this order.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 157—[AMENDED]

§ 157.49 [Amended]

1. Section 157.49(a)(2) is amended in clauses (i) and (ii) by deleting the phrase "Subpart A of Part 284" wherever it occurs and substituting in lieu thereof the phrase "Subpart B of Part 284."

SUBCHAPTER H—FIRST SALE REGULATION UNDER THE NATURAL GAS POLICY ACT OF 1978

2. Chapter I, is amended in both the Table of Contents for Chapter I and the Table of Contents for Subchapter H by amending the title of Subchapter H to read as follows: "Subchapter H—First Sale Regulation Under the Natural Gas Policy Act of 1978."

SUBCHAPTER I—OTHER REGULATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

3. Chapter I is amended in both the Table of Contents for Chapter I and the Table of Contents for Subchapter I by amending the title of Subchapter I to read as follows: "Subchapter I—Other Regulations Under the Natural Gas Policy Act of 1978 and Related Authorities."

PART 281—NATURAL GAS CURTAILMENT UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

4. Subchapter I is further amended in both the Table of Contents for Subchapter I and the Tables of Content for Parts 281 and 284 by amending the title of Part 281 to read as follows: "Part 281—Natural Gas Curtailment Under the Natural Gas Policy Act of 1978"; and amending the title of Part 284 to read as follows: "Part 284—Certain Sales and Transportation of Natural Gas Under the Natural Gas Policy Act of 1978 and Related Authorities."

5. Part 284 of Subchapter I is revised by striking out all that precedes Subpart C, striking out Subpart D, redesignating Subpart C as Subpart D, and inserting before Subpart D (as so redesignated) the following:

Subpart A—General Provisions

Sec.
284.1 Definitions.
284.2 Refunds and interest.
284.3 Jurisdiction under the Natural Gas Act.
284.4 Reporting.
284.5 Further terms and conditions.

Subpart B—Certain Transportation by Interstate Pipelines

Sec.
284.101 Applicability.
284.102 Transportation by interstate pipelines.
284.103 Rates and charges.
284.104 Terms and conditions.
284.105 Extensions.
284.106 Reporting requirements.
284.107 Applications.

Subpart C—Certain Transportation by Intrastate Pipelines

Sec.
284.121 Applicability.
284.122 Transportation by intrastate pipelines.
284.123 Rates and charges.
284.124 Terms and conditions.
284.125 Extensions.
284.126 Reporting requirements.
284.127 Applications.

Subpart D—Certain Sales by Intrastate Pipelines

Sec.
284.141 Applicability.
284.142 Sales by intrastate pipelines.
284.143 Definitions.
284.144 Rates and charges.
284.145 Terms and conditions.
284.146 Extensions.
284.147 Terminations.
284.148 Reporting requirements.

Subpart E—Assignment of Contractual Rights to Receive Surplus Natural Gas

Sec.
284.161 Applicability.
284.162 General rule.
284.163 Special rule.
284.164 Terms and conditions.
284.165 Filing requirements.

Subpart F—Transportation of Fuel Oil Displacement Gas

Sec.
284.200 Applicability.
284.201 Definitions.
284.202 Interstate pipeline transportation authorizations.
284.203 Intrastate pipeline transportation authorization.
284.204 Construction of facilities.
284.205 General conditions.
284.206 Effect on curtailments plans.
284.207 Reporting requirements.
284.208 Certificate procedures.

Subpart A—General Provisions

§ 284.1 Definitions.

(a) "Transportation" includes exchange, backhaul, displacement or other methods of transportation.

(b) "Appropriate state regulatory agency" means a state agency which regulates intrastate pipelines and local distribution companies within such state. When used in reference to rates and charges, the term includes only those agencies which set rates and charges on a cost-of-service basis.

§ 284.2 Refunds and interest.

(a) *Refunds.* Any rate or charge collected for any sale, transportation, or assignment conducted pursuant to this Part which exceeds the rates or charges authorized by this Part shall be refunded.

(b) *Interest.* All refunds made pursuant to this section shall include interest at the rate prescribed in § 154.67 of this chapter.

§ 284.3 Jurisdiction under the Natural Gas Act.

(a) For purposes of section 1(b) of the Natural Gas Act, the provisions of such Act and the jurisdiction of the Commission under such Act shall not apply to any transportation, sale or assignment in interstate commerce of natural gas if such a transaction is authorized pursuant to section 311 or 312 of the NGPA.

(b) For purposes of the Natural Gas Act, the term "natural gas company" (as defined by section 2(6) of such Act) shall not include any person by reason of, or with respect to, any transaction involving natural gas if the provisions of the Natural Gas Act do not apply to such transaction by reason of subparagraph (a) of this section.

(c) The Natural Gas Act shall not apply to facilities utilized solely for transportation authorized by section 311(a) of the NGPA.

§ 284.4 Reporting.

(a) All reports filed pursuant to this subchapter shall indicate quantities of natural gas in MMBtu's, as defined in § 270.102(b) (2) and (3) of this chapter.

(b) Within 48 hours after the commencement of deliveries of natural gas sold, assigned, or transported under any authorization of this Part, any interstate pipeline engaging in such a transaction shall file by telegram a summary report with the Commission, and any intrastate pipeline engaging in such a transaction shall file a summary report with both the Commission and the appropriate state regulatory agency. The summary report shall contain the following information:

(1) The identity of the pipeline submitting the report;

(2) The identity of the recipient;

(3) The dates of the commencement and anticipated termination of deliveries of the natural gas;

(4) The estimated total quantities to be delivered, and the estimated maximum daily deliveries; and

(5) The rate or rates to be charged.

§ 284.5 Further terms and conditions.

The Commission may prospectively, by rule or order, impose such further terms and conditions as it deems appropriate on transactions authorized by this Part.

Subpart B—Certain Transportation by Interstate Pipelines

§ 284.101 Applicability.

This subpart implements section 311(a)(1) of the NGPA and applies to the

transportation of natural gas by any interstate pipeline on behalf of:

(a) Any intrastate pipeline; or

(b) Any local distribution company.

§ 284.102 Transportation by interstate pipelines.

(a) *General rule.* (1) Except as provided in paragraph (b) of this section and subject to the provisions of this subpart, any interstate pipeline is authorized, without prior Commission approval, to transport natural gas on behalf of:

(i) Any intrastate pipeline; or

(ii) Any local distribution company.

(2) Rates charged for transportation under this paragraph may not exceed just and reasonable rates as provided in § 284.103.

(3) Transportation arrangements authorized under this paragraph may be extended as provided in § 284.105.

(4) Interstate pipelines engaging in transportation arrangements authorized under this paragraph shall file reports as provided in § 284.106 and § 284.4(b).

(b) *Limitations.* (1) Authorization under paragraph (a) is limited to an arrangement:

(i) Which does not exceed a period of two years, and

(ii) In which the transported natural gas is delivered directly or indirectly, to an interstate pipeline, intrastate pipeline, or local distribution company, which receives such natural gas for its system supply for resale.

(2) An interstate pipeline proposing to enter into a transaction for the transportation of natural gas on behalf of any intrastate pipeline or local distribution company, which is not authorized under paragraph (a) because of the operation of subparagraph (b)(1), shall apply to the Commission for prior authorization of the transaction, as provided by § 284.107.

§ 284.103 Rates and charges.

(a) *General rule.* Rates and charges for transportation authorized under § 284.102(a) shall be determined as provided in paragraphs (b) and (c) of this section.

(b) *Rate schedules on file.* If an interstate pipeline has on file with the Commission a transportation rate schedule applicable to transportation arrangements authorized under § 284.102(a), the interstate pipeline shall use the rates contained in that schedule.

(c) *Election.* If an interstate pipeline does not have on file with the Commission a transportation rate schedule applicable to transportation arrangements authorized under § 284.102(a), the interstate pipeline may elect either:

(1) To base its rates upon the methodology used in designing rates to recover the transmission and related storage costs included in one of its then effective sales rate schedules; or

(2) To use the rates contained in one of its transportation rate schedules on file with the Commission which the interstate pipeline determines covers service comparable to transportation service authorized under § 284.102(a).

(d) *Treatment of Revenues.* (1) Except as provided in subparagraphs (2) and (3), all revenues received for transportation authorized under § 284.102(a) in excess of an allowance of one cent per MMBtu shall be credited to Account No. 191 and flowed back to the interstate pipeline's customers.

(2) An interstate pipeline is not required to credit revenues to Account No. 191 pursuant to subparagraph (1):

(i) To the extent revenues attributable to such services fall within representative levels which have been credited in arriving at a test period cost of service; or

(ii) To the extent that volumes transported fall within representative levels which have been included in billing determinants for the purpose of establishing rates.

(3) An interstate pipeline may elect to forego the one cent per MMBtu allowance provided in paragraph (d)(1) of this section. In such a case the interstate pipeline is not required to credit to Account No. 191 any amount which it is able to demonstrate, upon application to the Commission, represents the out-of-pocket expenses of the interstate pipeline in connection with a transaction authorized under this Subpart.

§ 284.104 Terms and conditions.

Contracts for the transportation of natural gas authorized under § 284.102(a) shall provide:

(a) That service under the contract shall be conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing customers who are dependent on the pipeline's general system supply; and

(b) That the transportation arrangement is subject to the provisions of this subpart.

§ 284.105 Extensions.

(a) *General Rule.* An interstate pipeline seeking to extend a transportation arrangement authorized under § 284.102(a) shall file an extension report as required in § 284.106(c).

(b) *Approval.* If an extension report as required in § 284.106(c) is duly filed, the proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, and after opportunity for written comments, determines, by order, that the proposed extension is not authorized. If the Commission determines, by order, that the proposed extension shall be modified, the extension may take effect only as modified.

(c) *Period.* Extensions may be for a period not exceeding two years unless otherwise ordered by the Commission.

§ 284.106 Reporting requirements.

(a) *Initial full report.* Within thirty days after commencing transportation authorized by § 284.102(a), an interstate pipeline shall file with the Commission an initial full report, under oath, signed by a senior official of the company, containing the following information:

(1) The identity of the interstate pipeline and its affiliation, if any, with the other entities involved in the transaction and the identity, title and mailing address of the person or persons to whom communications concerning the transportation arrangement authorized under this Subpart should be addressed;

(2) A general description of the interstate pipeline's existing operations;

(3) A description of the transportation service, including:

(i) The identity of the parties;

(ii) The dates of commencement and projected termination of the service;

(iii) The estimated total and maximum daily quantities of natural gas to be transported;

(iv) The points between which the natural gas is to be transported; and

(v) The rate to be charged, and with respect to the rate:

(A) If the interstate pipeline is charging a rate computed pursuant to § 284.103(c)(1), an explanation of how the rate is computed; or

(B) If the interstate pipeline is charging a rate contained in one of its rate schedules under § 284.103(b), the identity of the rate schedule;

(C) If the interstate pipeline is charging a rate contained in one of its rate schedules under § 284.103(c)(2), a statement of the basis upon which the interstate pipeline determined that the rate schedule used was for comparable service; and

(4) A statement that the contract provides that:

(i) Service under the contract is conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing

customers who are dependent on the pipeline's general system supply; and

(ii) The transportation arrangement is subject to the provisions of this subpart.

(b) *Subsequent reports.* If any significant change occurs with respect to the information filed under paragraph (a) of this section, the interstate pipeline shall file with the Commission, under oath, appropriate amendments to its initial full report, signed by a senior official of the company.

(c) *Extension report.* Not less than ninety days prior to the expiration of a contract for the transportation of natural gas authorized under § 284.102(a), an interstate pipeline seeking to extend the transportation arrangement beyond the initial two-year period or any period of extension shall file with the Commission under oath an extension report, signed by a senior official of the company, stating:

(1) Current information with respect to any matters required to be reported under paragraph (a) of this section; and

(2) The proposed terms of the extension.

(d) *Final report.* Within thirty days after the termination of any transportation arrangement authorized under § 284.102(a), or, if extended, within thirty days after the end of the period of the extension, the interstate pipeline shall file with the Commission a report, under oath, signed by a senior official of the company, stating:

(1) Current information with respect to the matters required to be reported under paragraph (a) of this section;

(2) Actual total and maximum daily volumes of natural gas transported pursuant to the arrangement; and

(3) Total revenues received and a complete statement of the manner in which the revenues were treated.

§ 284.107 Applications.

(a) *Contents.* An interstate pipeline seeking Commission authorization for a transportation arrangement not authorized under § 284.102(a) shall file with the Commission an application, under oath, signed by a senior official of the company, containing the following information:

(1) The identity of the interstate pipeline and the identity, title and mailing address of the person or persons to whom communications concerning the transportation arrangement authorized under this subpart should be addressed;

(2) A description of the transportation service, including:

(i) The identity of the parties;

(ii) The dates of commencement and termination of the service;

(iii) The estimated total and maximum daily quantities of natural gas to be transported;

(iv) The points between which the natural gas is to be transported; and

(v) The basis for any rates and charges, as provided under § 284.103; and

(3) A statement that the contract provides that:

(i) Service under the contract is conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing customers who are dependent on the pipeline's general system supply; and

(ii) The transportation arrangement is subject to the provisions of this subpart.

(b) *Approval or denial.* The Commission may, by order, approve or deny an application. An order approving an application shall specify the applicable rates and charges, duration and reporting requirements and such other terms and conditions as the Commission deems appropriate and in the public interest.

Subpart C—Certain Transportation by Intrastate Pipelines

§ 284.121 Applicability.

This subpart implements section 311(a)(2) of the NGPA and applies to the transportation of natural gas by any intrastate pipeline on behalf of:

(a) Any interstate pipeline, or

(b) Any local distribution company served by any interstate pipeline.

§ 284.122 Transportation by intrastate pipelines.

(a) *General rule.* (1) Except as provided in paragraph (b) of this section, and subject to the provisions of this Subpart, any intrastate pipeline is authorized, without prior Commission approval, to transport natural gas on behalf of:

(i) Any interstate pipeline; or

(ii) Any local distribution company served by an interstate pipeline.

(2) Rates charged for transportation authorized under this Subpart may not exceed fair and equitable rates as provided in § 284.123.

(3) Transportation arrangements under this paragraph may be extended as provided in § 284.125.

(4) Intrastate pipelines engaging in transportation arrangements authorized under this paragraph shall file reports as required by § 284.126 and § 284.4(b).

(b) *Limitations.* (1) Authorization under paragraph (a) is limited to an arrangement:

(i) Which does not exceed a period of two years, and

(ii) In which the transported natural gas is delivered directly or indirectly to an interstate pipeline, intrastate pipeline, or local distribution company, which receives such natural gas for its system supply for resale.

(2) An intrastate pipeline proposing to enter into a transaction for the transportation of natural gas on behalf of any interstate pipeline or local distribution company served by an interstate pipeline, which is not authorized under paragraph (b)(1) shall apply to the Commission for prior authorization of the transaction, as provided by § 284.127.

§ 284.123 Rates and charges.

(a) *General rule.* Rates and charges for transportation of natural gas authorized under § 284.122(a) shall be fair and equitable as determined in accordance with paragraph (b) of this section.

(b) *Elections.* (1) The intrastate pipeline may elect to:

(1) Base its rates upon the methodology used:

(A) In designing rates to recover the cost of gathering, treatment, processing, transportation, delivery or similar service (including storage service) included in one of its then effective firm sales rate schedules for city-gate service on file with the appropriate state regulatory agency; or

(B) In determining the allowance permitted by the appropriate state regulatory agency to be included in a natural gas distributor's rates for city-gate natural gas service; or

(ii) To use the rates contained in one of its then effective transportation rate schedules for intrastate service on file with the appropriate state regulatory agency which the intrastate pipeline determines covers service comparable to service under this Subpart.

(2) If an intrastate pipeline does not choose to make any election under paragraph (b)(1) of this section, it shall seek the Commission's approval, by order, of the proposed rates and charges by filing with the Commission the proposed rates and charges, and information showing that the proposed rates and charges are fair and equitable. The intrastate pipeline may commence the transportation service and charge and collect the proposed rates upon filing the petition for approval. Collection of any rates or charges prior to the Commission's order shall be subject to the refund of any amount which the Commission determines, after affording notice and opportunity for the oral presentation of views, data and arguments, and written comments, to be in excess of those shown to be fair and

equitable or in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service. A Commission order authorizing a transportation rate under this subparagraph supersedes a rate determined in accordance with subparagraph (b)(1) of this section.

(c) *Treatment of Revenues.* The Commission presumes that all revenues received by an intrastate pipeline in connection with transportation authorized under § 284.122(a) and computed in accordance with paragraph (b)(1) of this section have been or will be taken into account by the appropriate state regulatory agency for purposes of establishing transportation charges by the intrastate pipeline for service to intrastate customers.

(d) *Presumptions.* If the intrastate pipeline is charging a rate computed pursuant to § 284.123(b)(1), the rate charged is presumed to be:

(1) Fair and equitable; and

(2) Not in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

§ 284.124 Terms and conditions.

Contracts for the transportation of natural gas authorized under this Subpart shall provide that the transportation arrangement is subject to the provisions of this Subpart.

§ 284.125 Extensions.

(a) *General rule.* An intrastate pipeline seeking to extend a transportation arrangement authorized under § 284.122(a) shall file an extension report as required in § 284.126(c).

(b) *Approval.* If an extension report as required in § 284.126(c) is duly filed, the proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, and after opportunity for written comments, determines, by order, that the proposed extension is not authorized. If the Commission determines, by order, that the proposed extension shall be modified, the extension may take effect only as modified.

(c) *Period.* Extensions may be for a period not exceeding two years unless otherwise authorized by the Commission.

§ 284.126 Reporting requirements.

(a) *Initial full report.* Within thirty days after commencing transportation authorized by this Subpart, an intrastate pipeline shall file with the Commission and the appropriate state regulatory agency an initial full report, under oath, signed by a senior official of the company, containing the following information:

(1) The identity of the intrastate pipeline; and the identity, title and mailing address of the person or persons to whom communications concerning the transportation arrangement pursuant to this Subpart should be addressed;

(2) A general description of the intrastate pipeline's existing operations;

(3) A description of the transportation service, including:

(i) The identity of the parties;

(ii) The dates of commencement and projected termination of the service;

(iii) The estimated total and maximum daily quantities of natural gas to be transported;

(iv) The points between which the gas is to be transported; and

(v) The rate to be charged, and with respect to the rate:

(A) If the intrastate pipeline is charging a rate computed pursuant to § 284.123(b)(1)(i), an explanation of how the rate is computed; or

(B) If the intrastate pipeline is charging a rate contained in one of its rate schedules under § 284.123(b)(1)(ii), a statement of the basis upon which the intrastate pipeline determined that the service provided is comparable to service provided for under that rate schedule;

(4) A statement that:

(i) The appropriate state regulatory agency has been notified that the Commission has presumed that all revenues received by an intrastate pipeline in connection with the transportation arrangement authorized under § 284.122(a) and computed in accordance with § 284.123(b)(1), have been or will be taken into account by the appropriate state regulatory agency for purposes of establishing transportation rates charged by the intrastate pipeline for service to intrastate customers; and

(ii) The transportation arrangement is subject to the provisions of this Subpart.

(b) *Subsequent reports.* If any significant change occurs with respect to the information filed under paragraph (a) of this section, the intrastate pipeline shall file with the Commission and the appropriate state regulatory agency, under oath, appropriate amendments to its initial full report, signed by a senior official of the company.

(c) *Extension report.* Not less than 90 days prior to the expiration of a contract for the transportation of natural gas authorized by § 284.122(a) an intrastate pipeline seeking to extend the transportation arrangement beyond the initial two-year period or any period of extension shall file with the Commission and the appropriate state regulatory agency, under oath, an extension report, signed by a senior official of the company stating:

(1) Current information with respect to any matters required to be reported under paragraph (a) of this section; and

(2) The proposed terms of the extension.

(d) *Final report.* Within thirty days after the termination of any transportation arrangement authorized under § 284.122(a) or, if extended, within thirty days after the end of the period of the extension, the intrastate pipeline shall file with the Commission and with the appropriate state regulatory agency a report, under oath, signed by a senior official of the company, stating:

(1) Current information with respect to the matters required to be reported under paragraph (a) of this section;

(2) Actual total and maximum daily quantities of natural gas transported; and

(3) Total revenues received.

§ 284.127 Applications.

(a) *Contents.* An intrastate pipeline seeking Commission authorization for a transportation arrangement not authorized under § 284.122(a) shall file with the Commission an application, under oath, signed by a senior official of the company, containing the following information:

(1) The identity of the intrastate pipeline and the identity, title and mailing address of the person or persons to whom communications concerning the transportation arrangement authorized under this Subpart should be addressed;

(2) A description of the transportation service, including:

(i) The identity of the parties;

(ii) The dates of commencement and termination of the service;

(iii) The estimated total and maximum daily quantities of natural gas to be transported;

(iv) The points between which the natural gas is to be transported;

(v) The basis for any rates and charges, as provided under § 284.123, and

(3) A statement that the contract provides that the transportation arrangement is subject to the provisions of this Subpart.

(b) *Approval or denial.* The Commission may, by order, approve, or deny an application. An order approving an application shall specify the applicable rates and charges, duration and reporting requirements and such other terms and conditions as the Commission deems appropriate and in the public interest.

6. Part 284 of Subchapter I is amended by inserting after Subpart D (as redesignated by this order) the following new Subpart E:

Subpart E—Assignment of Contractual Rights to Receive Surplus Natural Gas

§ 284.161 Applicability.

This subpart implements section 312 of the NGPA and applies to assignment by any intrastate pipeline to any interstate pipeline or local distribution company of its contractual right to receive surplus natural gas at any first sale.

§ 284.162 General rule.

Except as provided in § 284.163, no assignment pursuant to this Subpart may take place unless the Commission authorizes, by order, an application for assignment filed in accordance with § 284.165(a) upon a determination that the assignment is consistent with the NGPA and this Subpart and is necessary or appropriate in the public interest.

§ 284.163 Special rule.

An intrastate pipeline is authorized to assign, without compensation, to any interstate pipeline or local distribution company all or any portion of its contractual right to receive surplus natural gas at any first sale, without prior approval of the Commission, if:

(a) *Surplus determination.* The appropriate state regulatory agency has determined that the natural gas to be assigned exceeds the then current demands on the assigning intrastate pipeline for natural gas;

(b) *Price.* The price per MMBtu for the natural gas delivered in any month under the contract to be assigned does not and will not exceed an amount equal to the maximum lawful price per MMBtu for new natural gas as prescribed in Table I in § 271.101(a); and

(c) *Reports.* The reports required under §§ 284.4(b) and 284.165(d) are timely filed.

§ 284.164 Terms and conditions.

(a) *General terms and conditions.* Upon authorization by the Commission of an application for assignment, filed in accordance with § 284.165(a) or in the case of compliance with § 284.163, an intrastate pipeline may assign, without compensation, to any interstate pipeline or local distribution company all or any portion of its contractual right to receive surplus natural gas at any first sale. Rates charged for any gathering, treatment, processing, transportation, delivery or similar service (including storage service) performed in connection with an assignment authorized under this Subpart shall be computed in accordance with Subpart C of this Part.

(b) *Termination.* Upon receipt and review of reports required under § 284.165(d) for assignments authorized without prior Commission approval, the Commission reserves the right, by order, to terminate the authorization of the assignment if it determines such termination is required in the public interest.

§ 284.165 Filing requirements.

(a) *Contents.* Pursuant to § 284.162, an application for authorization of an assignment shall be filed by the intrastate pipeline, under oath, with the Commission, and the appropriate state regulatory agency, and shall set forth the following information:

(1) A description of the proposed assignment agreement, including:

(i) The identity of the parties;

(ii) The estimated quantities of natural gas, on a total and maximum daily basis;

(iii) The price per MMBtu applicable to the quantities to be delivered pursuant to the assignment and any other terms of the assignment relating to price; and

(iv) The point of delivery;

(2) A copy of the contract which covers the natural gas being assigned as surplus natural gas and any ancillary agreements;

(3) Evidence that the appropriate state regulatory agency has determined that the natural gas to be assigned exceeds the then current natural gas demands of the assigning intrastate pipeline.

(4) An attestation that the particular supplies of natural gas were not committed or dedicated to interstate commerce on November 8, 1978; and

(5) The computation of any rates to be charged pursuant to Subpart C of this Part for any gathering, treatment, processing, transportation, delivery or similar service (including storage service) to be performed by the intrastate pipeline under the assignment agreement.

(b) *Oath statement—price.* An interstate pipeline or local distribution company to which an intrastate pipeline would make an assignment authorized under § 284.162 shall file with the Commission a statement, under oath, signed by a senior official of the company, in support of the application under paragraph (a), that to the best of his knowledge, information and belief the price to be paid for the natural gas under the assignment (exclusive of any rates to be charged pursuant to Subpart C of this Part does not and will not exceed the maximum lawful price applicable to first sales of such gas under the NGPA and Part 271 of this Chapter.

(c) *Oath statement—effect.* An interstate pipeline to which an intrastate pipeline would make an assignment authorized under § 284.162 shall, in addition to the statement required under paragraph (a), file, under oath, with the Commission a statement in support of the application under paragraph (a) containing the following:

(1) The extent of curtailment, if any, anticipated to occur in the period in which the natural gas is to be delivered pursuant to the assignment;

(2) The effect which the price of the natural gas is expected to have on the interstate pipeline's average purchased gas cost in the period in which the natural gas is to be delivered pursuant to the assignment; and

(3) The reasons why in the opinion of the interstate pipeline the assignment should be authorized as necessary or appropriate in the public interest.

(d) *Initial full report.* Within 60 days of the commencement of deliveries under an assignment authorized under § 284.163 without prior approval of the Commission, the following information shall be filed, under oath, with the Commission:

(1) By the intrastate pipeline:

(i) A description of the proposed assignment, including:

(A) The identity of the parties;

(B) The quantities of natural gas delivered and estimated to be delivered, on a total and maximum daily basis;

(C) The price per MMBtu applicable to quantities delivered and to be delivered pursuant to the assignment and any other terms of the assignment relating to price; and

(D) The point of delivery;

(ii) A copy of the contract which covers the natural gas being assigned as surplus natural gas and any ancillary agreements;

(iii) Evidence that the appropriate state regulatory agency has determined that the natural gas to be assigned exceeds the then current demands on such pipeline for natural gas;

(iv) An attestation that the particular supplies of natural gas were not committed or dedicated to interstate commerce on November 8, 1978; and

(v) The computation of any rates charged or to be charged pursuant to Subpart C of this Part for any gathering, treatment, processing, transportation, delivery or similar service (including storage service) performed or to be performed by the intrastate pipeline under the assignment agreement;

(2) By the interstate pipeline or local distribution company to which the assignment is made, a statement under

oath, signed by a senior official of the company that to the best of his knowledge, information and belief the price for natural gas under the assignment (exclusive of any rates charged or to be charged pursuant to Subpart C of this Part) does not and will not exceed the maximum lawful price applicable to first sales of such gas under the NGPA and Part 271 of this Chapter.

§ 284.205 [Amended]

7. Section 284.205(b) is amended in subparagraph (1) by deleting the phrase "subpart A of this Part" and substituting in lieu thereof the phrase "Subpart B of this Part", and is further amended in subparagraph (2) by deleting the phrase "subpart B of this Part" and substituting in lieu thereof the phrase "Subpart C of this Part."

[FR Doc. 79-27868 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 73

[Docket No. 77C-0208]

Listing of Color Additives Exempt From Certification; Ferric Ammonium Ferrocyanide; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of June 15, 1979 of a regulation that revised certain specifications for ferric ammonium ferrocyanide.

DATE: Effective date confirmed: June 15, 1979.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A regulation published in the **Federal Register** of May 15, 1979 (44 FR 28321) revised the specifications for ferric ammonium ferrocyanide by increasing the tolerances for water-soluble cyanide, total cobalt, and total nickel, and by revising the total iron specification listed under § 73.1298(b) (21 CFR 73.1298(b)).

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 as amended (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the regulation of May 15, 1979. Accordingly, the amendments promulgated thereby became effective on June 15, 1979.

Dated: August 30, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27862 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 177

[Docket No. 78F-0243]

Indirect Food Additives: Polymers; Substances for Use Only as Components of Articles Intended for Repeated Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of 4-(diiodomethylsulfonyl) toluene as a component of rubber articles intended for repeated use in contact with food. This final rule is based on a petition filed by Abbott Laboratories.

DATES: Effective September 7, 1979, objections by October 9, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of September 12, 1978 (43 FR 40547) announced that a food additive petition (FAP 7B3321) had been filed by Abbott Laboratories, North Chicago, IL 60064, proposing that § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600) be amended to provide for the use of 4-(diiodomethylsulfonyl) toluene as a component of rubber articles intended for repeated use in contact with food.

The Food and Drug Administration, having evaluated the data in the petition and other relevant material, concludes that § 177.2600 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 177 is amended in § 177.2600(c)(4)(ix) by alphabetically inserting a new item in the list of substances to read as follows:

§ 177.2600 Rubber articles intended for repeated use.

* * * * *

(c) * * *

(4) * * *

(ix) * * *

4-(diiodomethylsulfonyl) toluene, Chemical Abstracts Service Registry No. 20018-09-01, for use as an antifungal preservative at levels not to exceed 0.3 percent by weight of the sealants and caulking materials.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 9, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 7, 1979.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 24, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27481 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 520, 522

[Docket No. 79N-0270]

New Animal Drugs in Oral Dosage Form or Implantation or Injectable Dosage Form Not Subject to Certification; Ethylisobutrazine Hydrochloride Tablets, Ethylisobutrazine Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for ethylisobutrazine hydrochloride tablets and ethylisobutrazine hydrochloride injection to identify the conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier **Federal Register** publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE. September 7, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-101), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of ethylisobutrazine hydrochloride tablets and injection was published in the **Federal Register** of November 18, 1969 (34 FR 18394). In that document, the Academy concluded, and the Food and Drug Administration agreed, that the products were probably effective as tranquilizers for veterinary use.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that the products could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Jensen-Salsbery Laboratories, Division of Burroughs Wellcome Co., Kansas City, MO 64141, responded to the notice by submitting supplemental NADA's (11-222V and 35-265V, tablet and injectable forms, respectively) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the products as tranquilizers for animals. The supplemental applications were approved by a regulation published in the **Federal Register** of January 11, 1973 (38 FR 1273). The regulation reflecting this approval established a new section for the drug in tablet form (21 FR 135c.89, recodified at 21 CFR 520.863) and a new section for the drug in the injectable form (21 CFR 135b.73, recodified at 21 CFR 522.863). The new sections did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to identify those conditions of use for which approval for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the new animal drug regulations. In lieu of those data, approval of identical products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 522 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. In Part 520, § 520.863 is amended by adding after paragraph (c) (1), (2), (3), and (4) the footnote reference "[1]" and by adding at the end of the section the footnote to read as follows:

§ 520.863 Ethylisobutrazine hydrochloride tablets.

* * * * *

(c) *Conditions of use.*

(1) * * * [1]

(2) * * * [1]

(3) * * * [1]

(4) * * * [1]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 522, § 522.863 is amended by adding after paragraph (c) (1), (2), (3), and (4) the footnote reference "[1]" and by adding at the end of the section the footnote to read as follows:

§ 522.863 Ethylisobutrazine hydrochloride injection.

* * * * *

(c) *Conditions of use.*

(1) * * * [1]

(2) * * * [1]

(3) * * * [1]

(4) * * * [1]

Effective date. This regulation is effective September 7, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: August 24, 1979.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-27482 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 510, 522

New Animal Drugs: Fluprostenol Sodium Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by ICI Americas, Inc., providing for use of a synthetic injectable prostaglandin in mares for its luteolytic effect, and to add ICI Americas, Inc., to the list of approved NADA sponsors.

EFFECTIVE DATE: September 7, 1979.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: ICI Americas, Inc., Wilmington, DE 19897, filed NADA 111-529 providing for intramuscular use in mares of fluprostenol sodium as a luteolytic agent for inducing estrus. The regulations are amended to reflect approval of this NADA and to add the sponsor to the list of approved NADA sponsors. In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information supporting approval of this application

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

is available for public examination at the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to (c)(2) to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address, and drug listing No.	
* * * * *	
ICI Americas, Inc., Wilmington, DE 19897,	011511.
* * * * *	

(2) * * *

Firm name and address, and drug listing No.	
* * * * *	
ICI Americas, Inc., Wilmington, DE 19897,	011511.
* * * * *	

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. Part 522 is amended by adding new § 522.995 to read as follows:

§ 522.995 Fluprostenol sodium injection.

(a) *Specifications.* Each milliliter of sterile aqueous solution contains fluprostenol sodium equivalent to 50 micrograms of fluprostenol.

(b) *Sponsor.* See 011511 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 0.55 microgram fluprostenol per kilogram of body weight.

(2) *Indications for use.* The drug is used in mares for its luteolytic effect to control the timing of estrus in estrous cycling and in clinically anestrous mares that have a corpus luteum.

(3) *Limitations.* Administer by intramuscular injection only. *Warning:* Not for use in horses intended for food. For veterinary use only. Federal law restricts this drug to use by or on the order of a licensed veterinarian. Women of childbearing age, asthmatics, and persons with bronchial and other respiratory problems should exercise extreme caution when handling this product. In the early stages, women may be unaware of their pregnancies. Fluprostenol is readily absorbed through the skin and can cause abortion and/or bronchiospasms. Direct contact with the skin should therefore be avoided. Accidental spillage on the skin should be washed off immediately with soap and water.

Effective date. This regulation is effective September 7, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 30, 1979.

Lester W. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79–27587 Filed 9–6–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 1040

[Docket No. 76N–0383]

Mercury Vapor Lamps; Radiation Safety Performance Standard

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes a radiation safety performance standard for high-intensity mercury vapor discharge lamps, including the metal halide type, that are designed, intended, or promoted for illumination purposes. The standard permits the manufacture of both self-extinguishing and non-self-extinguishing mercury vapor lamps. The standard requires each lamp to be properly labeled so that its type, manufacturer, and date of manufacture can be easily determined. The standard further requires that self-extinguishing lamps cease operation within 15 minutes after the outer envelope is broken to ensure that excessive human exposure to shortwave ultraviolet (UV) radiation is not likely to occur. The standard also requires adequate warning to be provided on packaging and in advertisements for a non-self-extinguishing lamp for the safe use of the product.

EFFECTIVE DATE: March 7, 1980, except that § 1040.30(d)(1)(ii) shall become effective September 7, 1981.

FOR FURTHER INFORMATION CONTACT: George C. Jan, Bureau of Radiological Health (HFX–430), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 21, 1978 (43 FR 16997), the Food and Drug Administration (FDA) proposed to establish a radiation safety performance standard for high-intensity mercury vapor discharge lamps. These lamps emit potentially harmful shortwave UV radiation if they continue to operate following breakage of the outer envelope. The public in general is not aware of this potential radiation hazard associated with the use of these lamps. The agency believes that the safe use of a product depends largely on the safety inherent in the design and performance of the product, and a regulatory standard for such products is needed to protect the public health and safety. Interested persons were given until June 20, 1978 to file written comments on the proposal.

A total of 12 comments were received—4 from manufacturers, 5 from utility companies and user groups, 2 from private citizens, and 1 from a national association of manufacturers. These comments and the agency's conclusions are summarized as follows:

1. One comment stated that the proposed standard had already created shortages in supplies for replacement because manufacturers had stopped making replacement lamps for fear they could not sell them.

No documentation was provided to substantiate the claim made in this comment. The standard permits two types of mercury vapor lamps: Self-extinguishing and non-self-extinguishing. The former now represents only a small percentage of all mercury vapor lamps sold. This agency has not received a report from any manufacturer that it plans to discontinue the manufacture of non-self-extinguishing lamps, nor has the agency received any report of a supply shortage of this type of lamp from users such as utility companies. FDA believes that the manufacture of mercury vapor lamps will be continued as long as they are needed and their use is not prohibited.

2. One comment said that the FDA's failure to set forth guidelines for recall in the proposal creates confusion. This omission leaves manufacturers of self-extinguishing mercury vapor lamps open to second-guessing situations for substantial and unnecessary risk of recall. The comment suggested that FDA should offer guidance in quality control to help prevent the introduction of defective lamps into the marketplace.

The standard requires that all mercury vapor lamps, not just a portion of them,

comply with the standard. Regulations regarding the determination of noncomplaint or defective electronic products and the repair, replacement, or refunding the cost of such products under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602; 82 Stat. 1173 et seq.) have been issued (see Parts 1003 and 1004 (21 CFR Parts 1003 and 1004)). In exercising its authority under Part 1003 to determine that a product has a defect or fails to comply with an applicable standard and to require that notification be made to dealers, distributors, and purchasers, the agency may take into account such relevant factors as the nature, extent, and cause of the defect or failure of compliance. If a final determination has been made that a product has a defect or fails to comply with a standard and the manufacturer has not been granted an exemption from notification and repair (§ 1003.31 (21 CFR 1003.31)), the manufacturer would be required to repair, replace, or refund the cost of the defective or noncomplaint product.

Certification of compliance may be based on a testing program that is in accordance with good manufacturing practices, provided it has not been disapproved by the Director, Bureau of Radiological Health, on the ground that it does not ensure that the products comply with the standard. The agency does not intend to prescribe the use of a specific testing program or specific sampling plan because a number of different testing programs could be adopted to ensure compliance. FDA's policy, however, is to issue compliance testing guidelines before the effective date of the standard to assist industry in establishing adequate testing programs. It should be pointed out that the disapproval of a testing program does not by itself result in the need for product recall. A finding that manufactured products have defects or fail to comply with an applicable standard is required before proceedings under Part 1003 could be initiated by FDA. The agency believes this response to the comment will eliminate any confusion as to the circumstances under which recall of defective mercury vapor lamps would be required and will demonstrate that additional guidelines or regulations are not needed.

3. One comment contended that the implementation of the regulation as proposed would constitute a disservice to the general public, be contrary to the President's stated goal of easing the burden of Federal regulations, and amount to a breach of faith on the part of FDA toward the Technical Electronic Products Radiation Safety Standards Committee (TEPRSSC) and the lighting industry. The comment urged that FDA subject the regulation to the review and analysis procedures prescribed in Executive Order 12044.

The agency disagrees that implementation of the proposed performance standard would either constitute a disservice to the general public or be in conflict with the President's goal. On the contrary, in the interest of the public health, it is essential that mercury vapor lamps be designed to terminate emission of shortwave UV radiation after breakage of the outer envelope or, if the lamps are not so designed, that the purchaser and user be warned of the potential danger of the lamps. The agency is convinced that the public interest is best served by a mandatory standard.

In the development of this standard, FDA has consulted with the lighting industry and has kept TEPRSSC aware of the course the agency was taking. In fact, during the May 6, 1977 meeting of TEPRSSC, the Bureau of Radiological Health informed the Committee that FDA intended to publish a proposed regulatory standard that would provide for both self-extinguishing and non-self-extinguishing lamps, and that the extinguishing time might have to be lengthened from the previously proposed 2 minutes because of the need for lamps to self-extinguish following partial lamp breakage as well as complete breakage. The Committee did not object to this course of action.

Concerning review and analysis pursuant to the Executive Order, it is not completely clear what review and analysis procedures the comment refers to. If it means "regulatory analysis" as described in Section 3 of the Executive Order, then this type of analysis is required to be applied only to significant regulations that have major economic consequences. According to FDA's interim guidelines for the implementation of Executive Order 12044, a regulatory analysis is required if the regulation would cause either (1) an increase in total cost or price of goods or services to the national economy of $100 million in any 1 year, or (2) an increase in cost or price of goods or services of 10 percent in any 1 year in any industry or market, level of government, or geographic region, provided that the increase in cost or price of goods or services so affected exceeds $10 million annually. The economic impact assessment for the proposed mercury vapor lamp standard and its supplement as filed with the FDA Hearing Clerk indicate that neither of these criteria is exceeded. Therefore, a regulatory analysis for the mercury vapor lamp standard is not needed. However, the background documents, including the documentation report, the environmental impact analysis report, and the economic impact assessment and its supplement for this standard, in the FDA Hearing Clerk's file contain most information required by the agency's guidelines to be provided in a regulatory analysis.

The supplement to the economic impact assessment was prepared because of concern expressed by some TEPRSSC members about the cost effectiveness of the standard after it was published as a proposed rule in the **Federal Register.** The additional cost for self-extinguishing lamps was estimated in the supplement to be $2 to $5 million each year and was expected to decrease to a level of $1 to $2 million within 4 years after the standard goes into effect. Based on available data and conservative assumptions, FDA obtained an acceptable benefit/cost ratio for the standard.

4. One comment noted that, without a clear knowledge of the distance/duration/intensity characteristics of UV radiation emitted by a lamp and the likelihood of breakage of the outer lamp envelope, the user of lamps for outdoor applications is at a loss to determine which type of lamp to use. This comment suggested that FDA should offer the user specific guidelines and recommendations as to which types of installations the agency considers safe for the use of the standard non-self-extinguishing lamps.

Use conditions for lighting installations vary. Thus, the agency believes that it would be impractical to provide, in the form of labels and advertisement statements, detailed guidelines for when or where a non-self-extinguishing lamp should be used. However, educational materials for the use of mercury vapor lamps were developed and issued by this agency in November, 1977 (HEW Publication No. (FDA) 77–8041), containing some general recommendations and guidelines for the safe use of the product. These educational efforts will be continued and broadened in the future.

5. One comment argued that shielding of other radiation sources can be regulated and that the same authority could extend to mercury vapor lamp fixtures. According to this comment, adequate shielding still appeared to be the most straightforward, practical, and least costly solution to the problem.

Because fixtures for mercury vapor lamps are generally considered to be separate devices and are sold separately, it would be impractical to

impose a standard on the lamp and fixture combined. The agency recognized the merit of adequate shielding and in the November 1977 Consumer Memo recommended it as a way to provide protection against the potentially hazardous radiation from existing lamps. The standard also permits adequate shielding as an alternative to the use of self-extinguishing lamps (§ 1040.30(e)(2)(ii) (21 CFR 1040.30(e)(2)(ii)).) However, regulating the fixture when the problem is associated with the broken lamp is inappropriate. Further, FDA does not agree that shielding is the most straightforward, practical, and least costly solution. For certain lighting applications where the amount of light output is critical for the performance of the intended function, the use of shielding may not be desirable. Also, the installation of a protective shield, even if it is possible depending on the type of fixture, is not necessarily less expensive than a self-extinguishing lamp. The agency believes that the public would benefit more from a choice to suit a particular need than from being unnecessarily burdened with a mandatory requirement for shielding. This approach is also consistent with the President's stated policy in Executive Order 12044 to minimize compliance costs and other burdens on the public.

6. Several comments contended that the regulatory approach would impose additional and unnecessary costs without giving the public more protection against injury. They believed that the current American National Standards Institute (ANSI) standard (C78–1330–1976, Specification for Mercury Lamps with Integral Means for Extinguishing the Arc after the Outer Envelope is Broken) is adequate to protect the public and should be adopted as a nonregulatory guideline for designing self-extinguishing mercury vapor lamps. One comment recommended that the ANSI standard be adopted with a change in the extinguishing time limit from 2 minutes to 15 minutes. Two comments suggested that the voluntary approach be coupled with an effective educational effort by both FDA and the lighting industry.

The agency is not convinced that a successful voluntary approach would be less expensive to the lighting industry, FDA, and consumers than a regulatory approach. The effectiveness of a voluntary standard depends on both FDA's and industry's programs to monitor and assure compliance. Such programs would include keeping relevant manufacturing and distribution records, preparation of reports on product safety, and adequate quality control and testing. FDA does not agree that the costs of a regulatory standard would be unnecessary or would not provide the public more protection.

In contrast to the proposed Federal performance standard, the ANSI standard does not provide for warnings in advertisements that non-self-extinguishing lamps should not be used in applications where potential acute injury to the eyes and skin from broken lamps is likely to occur. Nor does the ANSI standard require that lamps self-extinguish in the event of partial breakage of the outer envelope. The agency believes that such warnings to potential purchasers and self-extinguishing lamp characteristics are essential for protection of the public health.

7. Two comments objected to subjecting all lamp types of different wattages to the proposed requirements and suggested that applicability to a few higher wattage lamps, e.g., those over 175 watts (W), is all that is necessary.

The preamble to the April 21, 1978, proposal noted in part: "Owing to different installation conditions such as mounting heights and fixture types, radiation from a lower-wattage lamp can be just as hazardous at a closer exposure distance or for a longer period of exposure time. Further, because of the structural variations and different operating conditions, it is not uncommon for a lower wattage mercury vapor lamp to emit radiation comparable to that from a lamp of higher wattage." The agency, therefore, concluded: "It is inappropriate to exempt lower-wattage lamps from the provisions of the standard." This conclusion still remains valid in the absence of new data, and the comments are rejected.

8. One comment asked the meaning of the term "extended human exposure" and the use of a lamp in which extended human exposure to the short wavelength (UV) radiation from a broken mercury vapor lamp is considered unlikely. Other questions raised in the same comment were concerned with the concept of unacceptable exposure duration and the effect of the type of fixture or the mounting height on its likelihood of causing excessive human exposure.

Extended human exposure involves the concept of duration of exposure and would generally be considered unlikely in lighting applications such as roadway, street, and area lighting, and others where people do not remain under the light for a long time. The duration of exposure would usually be short enough to preclude injury. Excessive human exposure should be thought of in terms of total quantity of exposure that would result in human injury. Total quantity of exposure is the product of exposure duration and radiation intensity. Because the type of fixture and its mounting height can affect radiation intensity, they should be given careful consideration along with other factors, such as the intensity of the light source, in evaluating the likelihood of causing excessive human exposure. For example, a lamp would be less likely to cause excessive human exposure if mounted at a height of 40 to 50 feet than if mounted at a height of only 10 feet. The agency agrees, however, that the meaning of the term, "excessive human exposure" as contained in the proposed warning statements for non-self-extinguishing mercury vapor lamps was not sufficiently precise, and, therefore, the warning statements (§ 1040.30(e)(2)(ii) and (3)) have been revised to delete the term and make clear that such lamps should not be used where people will remain for more than a few minutes unless adequate shielding or other safety precautions are used.

9. One comment expressed concern about the use of mercury vapor lamps for nondestructive material testing such as inspection for the existence of porosity or cracks in a metal surface by exposing the test surface under near UV light from a mercury vapor lamp. The comment claimed that it makes little difference in this application whether the lamp envelope is damaged if the filter and the housing containing the lamp remain intact and in place. Therefore, use of a self-extinguishing type of lamp in this case would be an "expensive nuisance." Use of the non-self-extinguishing type would also constitute a violation of the letter of the required label warning against use of such lamps in applications where excessive human exposure is likely to occur because the term "excessive human exposure" could also mean near UV radiation to which inspecting personnel are likely to be exposed in this application.

The agency notes that the standard does not apply to mercury vapor lamps that are not designed, intended, or promoted for illumination purposes. The agency advises, however, that § 1040.30(e)(2)(ii) and (3) has been revised to clarify that the warning statements refer only to shortwave UV radiation.

10. One comment suggested that the regulation should not apply to mercury vapor lamps that include an optical assembly, such as an aluminum reflector

with a glass refractor completely enclosing the lamp that absorbs the shortwave UV radiation given off by a broken lamp.

The standard is intended to apply to the mercury vapor lamp only, not the lamp and fixture combined. The difficulty of treating the lamp and fixture combined as a single product has been discussed. The agency rejects the comment because a non-self-extinguishing lamp can be used under the circumstance described without violating the spirit or intention of the warning label.

11. Several comments suggested that the definition of "high-intensity mercury vapor discharge lamp" in § 1040.30(b)(1) be modified to exclude the self-ballasted type. They claimed that self-ballasted mercury lamps are fundamentally different from the standard mercury vapor lamp and have never caused a radiation burn incident. The mercury arc tube of a self-ballasted lamp is wired electrically in series with an incandescent, tungsten filament that is absolutely necessary to the functioning of the lamp and also serves as an inherently quick self-extinguishing device. Further, the total lamp wattage of the self-ballasted type lamp is divided so that, for the range of 160-W to 1250-W lamps, arc tube wattage dissipation is only about 25 to 50 percent, respectively, of the total wattage. Compared with equal wattage standard mercury vapor lamps, this design principle also results in nonsimilar mercury spectral emission properties.

A few comments also urged that metal halide lamps be excluded from the provisions of the standard. The comments contended that the quantitative characteristics of mercury vapor lamps and metal halide lamps are quite different. They argued that metal halide arc-tubes, under the same conditions of wattage and operating parameters with the envelope removed, emit less UV radiation below 320 nanometers (nm) by a factor of at least 6 than that of mercury vapor lamps. The comments also argued that extinguishing mechanisms could not arbitrarily be introduced into metal halide lamps with the anticipation of their being equally effective. In the absence of incidents due to this type of lamp, the comments considered the inclusion of metal halide lamps in the definition unwarranted.

The agency agrees to exclude from the definition of high intensity mercury vapor discharge lamps the tungsten filament self-ballasted type that extinguishes quickly in case the outer envelope of the lamp is broken. Because of this inherent safety feature, overexposure to shortwave UV radiation emitted from a broken lamp of this type is unlikely to occur. Section 1040.30(b)(1) is revised accordingly.

However, metal halide lamps have physical structure and emission characteristics similar to those of mercury vapor lamps. Sufficient shortwave UV radiation is emitted by broken metal halide lamps to lead to the conclusion that these radiation levels are capable of causing injury. Thus, the agency concludes that metal halide lamps should either by self-extinguishing or carry the proper warnings as required in the standard and rejects the comments.

12. One comment objected to the requirement that non-self-extinguishing lamps be marked with identification codes that would be visible after the envelope was broken. Because these lamps contain no safety device, extra labeling is not needed, is an unnecessary expense to the industry, and serves no purpose.

Identification of the manufacturer and date of manufacture is necessary for any electronic product subject to a standard. Because injuries from these products can occur when the lamp is broken, it is necessary to be able to identify the manufacturer and date of manufacture after the bulb is broken and to be able to investigate labeling, sales, and advertising practices. The comment is rejected and the labeling requirement of § 1040.30(c)(1)(ii) is retained.

13. Several comments contended that merely extending the time permitted for a lamp to self-extinguish from 2 to 15 minutes to ensure that a lamp shuts off when punctured but not broken was not justified. They claimed that this trade-off seemed unnecessary in view of the low incidence and uncertainty concerning reports involving small holes in the outer envelopes of mercury vapor lamps. Further, to provide for automatic cutoff in the event of a small hole in the lamp envelope would require a costly program to develop a new design that was not warranted by such a highly improbable occurrence. Some comments urged that the compliance date for partial breakage be extended to allow additional time to develop and test adequate self-extinguishing mechanisms.

More than 60 persons were reported injured in a single incident of partial breakage of the outer envelope of a mercury vapor lamp. This alone is sufficient to cause concern for similar incidents regardless of the frequency of such occurrences. Preliminary laboratory tests by FDA also show that partial breakage of the outer envelope of mercury vapor lamps is readily produced when the envelope is struck by a pellet from a low velocity air rifle. The agency believes that it is necessary to provide a shutoff mechanism in the lamp to avoid injuries when partial breakage occurs in the outer envelope. The 15-minute cutoff time, however, is not based solely on the need to protect against the occurrence of partial breakage of the lamp. The 15-minute cutoff time is believed to be a reasonable limit that would provide more flexibility for lamp design without sacrificing the intention to reduce the probability of injury effectively. However, to allow sufficient time for manufacturers to perfect their lamp designs and complete testings of the products under various breakage conditions, the agency agrees to extend the compliance date of the provision of § 1040.30(d)(1)(ii) until September 7, 1981. This extension of the compliance date would further alleviate any economic impact.

14. There was also some concern about the extra energy consumption of self-extinguishing lamps that use a tungsten fuse to satisfy the partial breakage condition requirement in the standard.

A power loss of about 12 W in the tungsten coil of a 400-W lamp was reported by a manufacturer of such lamps. This represents approximately a 3 percent lower lamp efficiency. The reduction in luminous efficiency for other lamps with different wattage ratings is not known to FDA at the present time. The reduced efficiency for 400-W lamps is too small to affect the intended function of the lamps for general illumination. The estimated reduced efficiency is also small when compared with the acceptable lamp lumen depreciation (LLD) factors specified over the useful life of the lamp, and with the inherent lamp-to-lamp variation in radiation emitted. Because the total light reduction is small and the energy consumption for the operation of a single lamp remains the same for the same wattage lamp, FDA believes that there would be little, if any, extra energy consumption from the use of such lamps. Thus, no change in the regulation is necessary.

15. One comment suggested that the proposed "T" or "R" marking on the lamp base is unnecessary because the lamp or mount remaining in the event of breakage can be identified by its manufacturer; because the surface area of the base available for such a marking is very limited; and because the marking would tend to become obliterated during lamp life. Further, marking the base would require an extra production step as well as segregation of base

inventories prior to cement filling. Another comment considered additional "R" marking other than those required in ANSI's standard on lamps without a safety device confusing and unnecessary.

Because of these comments, the agency has reconsidered the requirement for locating the "R" or "T" marking on the base of the lamp. The requirement is intended to provide a means to identify quickly and readily any lamp subject to the standard in the event the outer envelope of the lamp has been broken away. Further, because the standard permits two types of lamps to be marketed, the ability to distinguish unambiguously one type from another in all cases is critical for the effective implementation and enforcement of the standard. The agency believes, however, that the intent of the proposed requirement would not be compromised if the markings were permitted to be located on any part of the lamp, provided they are clear and prominent whether the lamp is intact or the outer envelope broken or removed. The agency has, therefore, modified §§ 1040.30 (d)(2) and (e)(1) to provide the manufacturer with greater design flexibility with regard to the location of these markings. The agency, however, disagrees that additional "R" marking, other than the warning statement required in ANSI's standard on non-self-extinguishing lamps, would be unnecessary and cause confusion. On the contrary, FDA believes the "R" marking will help in identifying the lamp type directly, especially when the outer envelope of the lamp is broken or removed.

16. One comment considered the word "damaged" used in the warning statements not sufficiently precise. It suggested that the exact type of damage, namely, the broken outer envelope, be expressly referred to in those statements.

The agency agrees that the word "damaged" used in the proposed warning statements was not precise. Section 1040.30(e) (2)(ii) and (3) has been revised as suggested in this comment.

17. Several comments objected to the inclusion of the word "cancer" in the proposed warning statements. Reasons cited for this objection include: The lack of scientific evidence that cancer can result from an accidental one-time exposure to radiation from a broken mercury vapor lamp; such an exposure represents an extremely small fraction of an individual's lifetime burden of UV radiation; and the proposed wording goes beyond the contents of FDA's own recommended labeling for UV generators (§ 801.403 (21 CFR 801.403)), misleading the general public with regard to the hazard from broken mercury vapor lamps and constituting a violation of the agency's misbranding regulations. In general, these comments contended that the proposed labeling exaggerated and overemphasized the potential hazard of broken mercury vapor lamps.

The agency is concerned that even a single severe overexposure to shortwave UV radiation may increase an individual's risk of developing skin cancer. The greatest concern with shortwave UV radiations inducing skin cancer, however, is the effect of repeated overexposure. In this respect, the proposed warning may unnecessarily alarm the public, because repeated exposures to UV radiation from broken mercury vapor lamps would be unusual in the normal use of those products. Therefore, the reference to cancer has been deleted from the warning statements required by this final rule. The agency believes, however, that there is need to warn individuals, such as maintenance personnel, whose occupation would result in repeated exposures to UV radiation from broken mercury vapor lamps, and will take appropriate steps to disseminate this information.

18. A summary of significant comments as discussed in this preamble was also presented at the 17th meeting of TEPRSSC on November 9, 1978. Significant oral comments and recommendations made by members of TEPRSSC and representatives from industry attending that meeting were repeated in writing and have been carefully considered and responded to throughout this notice.

19. In addition to all comments received, the agency notes that proposed § 1040.30(d)(1), regarding the effective dates for compliance with the maximum cumulative operating time and size of the hole provisions was unclear. Section 1040.30(d)(1) (i) and (ii) has been modified in the final rule to make clear when each requirement is effective.

Also, for clarification, the agency has added a definition for "reference ballast" to the standard. Section 1040.30(b)(8) identifies this component as an inductive reactor with the operating characteristics listed in the appropriate section of ANSI C 82.5–1977.

Finally, the agency is also modifying the warning statements of proposed § 1040.30(e) (2) and (3) to ensure that users and lamp purchasers are informed of the availability of self-extinguishing lamps.

To reduce the potential hazard from mercury vapor lamps by subjecting them to the radiation safety performance requirements of the standard at the earliest possible date, this standard shall become effective March 7, 1980, except for the requirements in § 1040.30(d)(1)(ii) pertaining to punctured lamps. Because several lamp manufacturers now market self-extinguishing mercury lamps that they claim meet either the complete breakage or complete and partial breakage test conditions as required in § 1040.30(d), the agency believes that the effective date of the standard will not impose an unreasonable burden on any lamp manufacturer.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 1040 is amended by adding new § 1040.30 to read as follows:

§ 1040.30 High-intensity mercury vapor discharge lamps.

(a) *Applicability.* The provisions of this section apply to any high-intensity mercury vapor discharge lamp that is designed, intended, or promoted for illumination purposes and is manufactured or assembled after March 7, 1980, except as described in paragraph (d)(1)(ii) of this section.

(b) *Definitions.* (1) "High-intensity mercury vapor discharge lamp" means any lamp including any "mercury vapor" and "metal halide" lamp, with the exception of the tungsten filament self-ballasted mercury vapor lamp, incorporating a high-pressure arc discharge tube that has a fill consisting primarily of mercury and that is contained within an outer envelope.

(2) "Advertisement" means any catalog, specification sheet, price list, and any other descriptive or commercial brochure and literature, including videotape and film, pertaining to high-intensity mercury vapor discharge lamps.

(3) "Packaging" means any lamp carton, outer wrapping, or other means of containment that is intended for the storage, shipment, or display of a high-intensity mercury vapor lamp and is intended to identify the contents or recommend its use.

(4) "Outer envelope" means the lamp element, usually glass, surrounding a high-pressure arc discharge tube, that, when intact, attenuates the emission of shortwave ultraviolet radiation.

(5) "Shortwave ultraviolet radiation" means ultraviolet radiation with

wavelengths shorter than 320 nanometers.

(6) "Cumulative operating time" means the sum of the times during which electric current passes through the high-pressure arc discharge.

(7) "Self-extinguishing lamp" means a high-intensity mercury vapor discharge lamp that is intended to comply with the requirements of paragraph (d)(1) of this section as applicable.

(8) "Reference ballast" is an inductive reactor designed to have the operating characteristics as listed in Section 7 in the American National Standard Specifications for High-Intensity Discharge lamp Reference Ballasts (ANSI C82.5–1977)[1] or its equivalent.

(c) *General requirements for all lamps.* (1) Each high-intensity mercury vapor discharge lamp shall:

(i) Meet the requirements of either paragraph (d) or paragraph (e) of this section; and

(ii) Be permanently labeled or marked in such a manner that the name of the manufacturer and the month and year of manufacture of the lamp can be determined on an intact lamp and after the outer envelope of the lamp is broken or removed. The name of the manufacturer and month and year of manufacture may be expressed in code or symbols, provided the manufacturer has previously supplied the Director, Bureau of Radiological Health, with the key to the code or symbols and the location of the coded information or symbols on the lamp.

(2) In lieu of permanently affixing or inscribing tags or labels on the product as required by §§ 1010.2(b) and 1010.3(a) of this chapter, the manufacturer of any high-intensity mercury vapor discharge lamp may permanently affix or inscribe such required tags or labels on the lamp packaging uniquely associated with the applicable lamp.

(d) *Requirements for self-extinguishing lamps*—(1) *Maximum cumulative operating time.* (i) Each self-extinguishing lamp manufactured after March 7, 1980 shall cease operation within a cumulative operating time not to exceed 15 minutes following complete breakage or removal of the outer envelope (with the exception of fragments extending 50 millimeters or less from the base shell); and

(ii) Each self-extinguishing lamp manufactured after September 7, 1981, shall cease operation within a cumulative operating time not to exceed 15 minutes following breakage or removal of at least 3 square centimeters of contiguous surface of the outer envelope.

(2) *Lamp labeling.* Each self-extinguishing lamp shall be clearly marked with the letter "T" on the outer envelope and on another part of the lamp in such a manner that it is visible after the outer envelope of the lamp is broken or removed.

(3) *Lamp packaging.* Lamp packaging for each self-extinguishing lamp shall clearly and prominently display:

(i) The letter "T"; and

(ii) The words "This lamp should self-extinguish within 15 minutes after the outer envelope is broken or punctured. If such damage occurs, TURN OFF AND REMOVE LAMP to avoid possible injury from hazardous shortwave ultraviolet radiation."

(e) *Requirements for lamps that are not self-extinguishing lamps*—(1) *Lamp labeling.* Any high-intensity mercury vapor discharge lamp that does not comply with paragraph (d)(1) of this section shall be clearly and legibly marked with the letter "R" on the outer envelope and on another part of the lamp in such a manner that it is visible after the outer envelope of the lamp is broken or removed.

(2) *Lamp packaging.* Lamp packaging for each high-intensity mercury vapor discharge lamp that does not comply with paragraph (d)(1) of this section shall clearly and prominently display:

(i) The letter "R"; and

(ii) The words "WARNING: This lamp can cause serious skin burn and eye inflammation from shortwave ultraviolet radiation if outer envelope of the lamp is broken or punctured. Do not use where people will remain for more than a few minutes unless adequate shielding or other safety precautions are used. Lamps that will automatically extinguish when the outer envelope is broken or punctured are commercially available."

(3) *Lamp advertisement.* Advertising for any high-intensity mercury vapor discharge lamp that does not comply with paragraph (d)(1) of this section shall prominently display the following wording: "WARNING: This lamp can cause serious skin burn and eye inflammation from shortwave ultraviolet radiation if outer envelope of the lamp is broken or punctured. Do not use where people will remain for more than a few minutes unless adequate shielding or other safety precautions are used. Lamps that will automatically extinguish when the outer envelope is broken or punctured are commercially available."

(f) *Test conditions.* Any high-intensity mercury vapor discharge lamp under test for compliance with the requirements set forth in paragraph (d)(1) of this section shall be started and operated under the following conditions as applicable:

(1) Lamp voltage, current, and orientation shall be those indicated or recommended by the manufacturer for operation of the intact lamp.

(2) The lamp shall be operated on a reference ballast.

(3) The lamp shall be started in air that has a temperature of 25±5° C. Heating and movement of the air surrounding the lamp shall be that produced by the lamp and ballast alone.

(4) If any test is performed in an enclosure, the enclosure shall be not less than 0.227 cubic meter (8 cubic feet).

(5) Any lamp designed to be operated only in a specific fixture or luminaire that the lamp manufacturer supplies or specifies shall be tested in that fixture or luminaire. Any other lamp shall be tested with no reflector or other surrounding material.

Effective date. This regulation shall become effective March 7, 1980, except that § 1040.30(d)(1)(ii) shall become effective September 7, 1981.

(Sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f))

Dated: August 27, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27213 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

[1] Copies are available from American National Standards Institute, 1430 Broadway, New York, NY 10018.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 53

[T.D. 7644]

Income Tax: Taxable Years Beginning After December 31, 1953; Foundation and Similar Excise Taxes; Black Lung Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains regulations relating to operator's trusts for the payment of black lung benefits and excise taxes on acts of self-dealing and taxable expenditures. Changes in the applicable tax law were made by the Black Lung Benefits Revenue Act of 1977. The regulations would affect persons who are liable for the payment of benefits under Black Lung Acts.

DATE: The regulations are effective for taxable years beginning after December 31, 1977.

FOR FURTHER INFORMATION CONTACT: George Baker of the Employee Plans and Exempt Organizations Division, Office

of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 Attention: CC:EE–170–78; 202–566–3422 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On November 29, 1978, the Internal Revenue Service published in the **Federal Register** proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 501(c)(21) of the Internal Revenue Code of 1954, and to the regulations for Foundation and Similar Excise Taxes (26 CFR Part 53) under sections 4951 and 4952 of the Code. These amendments were proposed to conform the regulations to changes in the Internal Revenue Code made by sections 4 (a) and (c) of the Black Lung Benefits Revenue Act of 1977 (92 Stat. 15). Four comments were received from the public; no public hearing was held.

Operator's Trust for the Payment of Black Lung Benefits

Section 501(c)(21) permits the establishment of a trust for the payment of liabilities under Black Lung Acts. The term "Black Lung Acts" means Part C of Title IV of the Federal Coal Mine Health and Safety Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis. A trust that meets the requirements of section 501(c)(21) is exempt from the payment of income tax. Sections 1.501(c)(21)–1 and 1.501(c)(21)–2 apply to that section.

Excise Taxes on Acts of Self-Dealing and Taxable Expenditures

Under section 4951 a tax is imposed on acts that constitute prohibited transactions between a trust described in section 501(c)(21) and certain persons who are disqualified persons. Under section 4952 a tax is imposed on a trust described in section 501(c)(21) for acts that constitute taxable expenditures. These taxes are similar to taxes on foundation self-dealing and foundation taxable expenditures imposed by sections 4941 and 4945 of the Code. Accordingly, regulations and rulings interpreting sections 4941 and 4945 provide guidance to interpretation of sections 4951 and 4952. Sections 53.4951–1 and 53.4952–1 apply to sections 4951 and 4952.

Comments on the Proposed Regulations

Three of the four comments received from the public objected to § 53.4951–1(c) of the proposed regulations. That provision would preclude a bank that is a trustee (or is a disqualified person for another reason) from using its own commercial banking services (such as demand deposits, time deposits, or certificates of deposit) in transacting business for the trust.

The legislative history of the Black Lung Benefits Revenue Act of 1977 makes it quite clear that the Congress intended the rule contained in the proposed regulations to apply. The report of the Senate Committee on Finance stated, ". . . if a bank . . . is a trustee of the trust or otherwise is a 'disqualified person' with respect to the trust . . . no funds of the trust may be held or invested in checking accounts, savings accounts, certificates of deposits, or other time or demand deposits in that bank . . . the committee intends that a bank-trustee may not invest the funds of a section 501(c)(21) trust in the bank's savings accounts, checking accounts, or certificates of deposit, whether or not such investments would be permitted under section 4941 to a bank-trustee or [*sic*] a private foundation." S. Rep. No. 95–336, 95th Cong., 1st Sess. 14, 16 n. 7 (1977), 1978–1 C.B. 503,504. Identical statements appear in the floor discussion of the conference report of the legislation. 123 Cong. Rec. S. 19494, 19496 n. 5 (daily ed. Dec. 15, 1977).

Accordingly, the final regulations do not differ from the proposed regulations on this point, and the proposed regulations are adopted without change, other than a clerical correction of some amendatory language.

Drafting Information

The principal author of these regulations was George Baker of the Employee Plans and Exempt Organizations Division of the office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Parts 1 and 53 are hereby adopted as proposed, except that the amendatory language of paragraph 2 of the notice of proposed rulemaking is revised to read as follows:

Par. 2. Part 53 is retitled, subpart J is redesignated subpart K, and a new subpart J is added to read as follows:

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 27 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: August 28, 1979.

Daniel I. Halperin,

Acting Assistant Secretary of the Treasury.

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

1. Part 1 is amended by adding the following new sections:

§ 1.501(c)(21)–1 Black lung trusts—certain terms.

(a) *Created or organized in the United States.* A trust is not "created or organized in the United States" unless it is maintained at all times as a domestic trust in the United States. For this purpose, section 7701(a)(9) limits the term "United States" to the District of Columbia and States of the United States.

(b) *Insurance company.* The term "insurance company" means an insurance, surety, bonding or other company whose liability for the kinds of claims to which section 501(c)(21)(A)(i) applies is as an insurer or guarantor of the liabilities of another.

(c) *Black Lung Acts.* The term "Black Lung Acts" includes any State law providing compensation for disability or death due to pneumoconiosis even though the State law compensates for other kinds of injuries. In such a case, section 501(c)(21) applies only to the extent that the liability is attributable to disability or death due to pneumoconiosis. For this purpose, the term "pneumoconiosis" has the same meaning as it has under federal law. See 30 U.S.C. 902.

(d) *Insurance exclusively covering such liability.* The term "insurance exclusively covering such liability" includes insurance that covers risk for liabilities in addition to the liabilities to which section 501(c)(21)(A)(i) applies. In such a case, payment for premiums may be made from the trust only to the extent of that portion of the premiums that has been separately allocated and stated by the insurer as attributable solely to coverage of the liabilities to which section 501(c)(21)(A)(i) applies.

(e) *Administrative and other incidental expenses.* The term "administrative and other incidental expenses" means expenditures that are appropriate and helpful to the trust making them in carrying out the purposes for which its assets may be used under section 501(c)(21)(B). The term includes any excise tax imposed on the trust under section 4952 (relating to

taxes on taxable expenditures) and reasonable expenses, such as legal expenses, incurred by the trust in connection with an assertion against the trust of liability for a taxable expenditure. The term does not include an excise tax imposed on the trustee or on other disqualified persons under section 4951 (relating to taxes on self-dealing) or under section 4953 (relating to tax on excess contributions to black lung benefit trusts) or any expenses incurred in connection with the assertion of these taxes other than expenses that are treated as part of reasonable compensation under section 4951(d)(2)(C). See §§ 53.4941 (d)–2(f)(3) and (d)–3(c) for interpretations of similar provisions under section 4941(d)(2)(E), relating to reasonable compensation for private foundation disqualified persons.

(f) *Public debt securities of the United States.* The term "public debt securities of the United States" means obligations that are taken into consideration for purposes of the public debt limit. See, for example, 31 U.S.C. 757b.

(g) *Obligations of a State or local government.* The term "obligations of a State or local government" means the obligations of a State or local governmental unit the interest on which is exempt from tax under section 103(a). See § 1.103–1(a).

(h) *Time or demand deposits.* The term "time or demand deposits" includes checking accounts, savings accounts, certificates of deposit or other time or demand deposits. The term does not include common or collective trust funds such as a common trust fund as defined in section 584.

§ 1.501(c) (21)–2 Same—trust instrument.

A trust does not meet the requirements of section 501(c)(21) if it is not established and maintained pursuant to a written instrument. The trust instrument must definitely and affirmatively prohibit a diversion or use of trust assets that is not permitted under section 501(c)(21)(B) or section 4953(c), whether by operation or natural termination of the trust, by power of revocation or amendment, by the happening of a contingency, by collateral arrangement, or by any other means. No particular form for the trust instrument is required. A trust may meet the requirements of section 501(c)(21) although the trust instrument fails to contain provisions the effects of which are to prohibit acts that are subject to section 4951 (relating to taxes on self-dealing), section 4952 (relating to taxes on taxable expenditures) or the retention of contributions subject to section 4953 (relating to tax on excess contributions to black lung benefit trusts).

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

2. Part 53 is retitled, subpart J is redesignated subpart K, and a new subpart J is added to read as follows:

* * * * *

Subpart J— Black Lung Benefit Trust Excise Taxes

§ 53.4951–1 Black lung trusts—taxes on self-dealing.

(a) *In general.* Section 4951 contains provisions that correspond to provisions of section 4941 (relating to taxes on foundation self-dealing) and section 4946 (relating to definitions and special rules). Regulations and rulings under these corresponding provisions apply to section 4951 where appropriate.

(b) *Transfer of property to trust.* A transfer of personal property without consideration to a trust for which a deduction is allowable under section 192 does not constitute a sale or exchange for purposes of section 4951 unless the property is subject to a mortgage or similar lien within section 4951(d)(2)(A). The transfer to a trust of a note or other evidence of indebtedness constitutes an extension of credit to the obligor for purposes of section 4951(d)(1)(B).

(c) *Deposits.* A time or demand deposit made with a bank or credit union that is a trustee or other disqualified person with respect to a trust constitutes a lending of money for purposes of section 4951(d)(1)(B) even though the deposit is of a kind generally authorized for investments by the trust.

(d) *Trustee.* The term "trustee" as used in section 4951(e)(5)(B) includes any person having powers or responsibilities with respect to a trust similar to those of trustees.

(e) *Misallocation of insurance premium.* Under section 501(c)(21)(A)(ii) and § 1.501(c)(21)-1(d), a trust may pay a portion of a premium for insurance which covers both black lung liabilities and other liabilities, so long as the requirements of section 501(c)(21)(A)(i) concerning allocation of the total premium are met. However, if an insurance company misallocates the total premium in a manner which benefits a disqualified person, the amount of misallocation constitutes a use of trust assets for the benefit of the disqualified person within section 4951(d)(1)(D). For these purposes, it is irrelevant whether the combination of insurance is sold under one policy or more than one policy.

(f) *Effective date.* Section 4951 applies with respect to acts that occur after December 31, 1977, in and for trust *taxable* years beginning after December 31, 1977.

§ 53.4952–1 Black lung trusts—taxes on taxable expenditures.

(a) *In general.* Section 4952 contains provisions that generally correspond to provisions of section 4945 (relating to taxes on taxable expenditures by private foundations) and section 4946 (relating to definitions and special rules). Regulations and rulings under these corresponding provisions apply to section 4952 where appropriate. See section 4952(e)(1) for the definition of "correction".

(b) *Unauthorized investments.* The term "taxable expenditure" in section 4952(d) includes an investment that is not authorized under section 501(c)(21)(B)(ii).

(c) *Effective date.* Section 4952 applies with respect to expenditures made after December 31, 1977, in and for trust taxable years beginning after December 31, 1977.

[FR Doc. 79–27997 Filed 9–6–79: 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

32 CFR Parts 1201, 1203, 1214 and 1216

[DLAR 4105.1]

Defense Logistics Procurement

AGENCY: Defense Logistics Agency (DLA).

ACTION: Final rule.

SUMMARY: The Defense Logistics Agency (DLA) is revising its Defense Logistics Procurement Regulation (DLPR) issued by authority of the Director, DLA. It implements the Defense Acquisition Regulation (DAR) and other Department of Defense publications and, pursuant to DAR 1–108, establishes for DLA procedures relating to the acquisition of supplies and services under the authority of Chapter 137, Title 10 of the United States Code, or other statutory authority.

EFFECTIVE DATE: 15 July 1979

FOR FURTHER INFORMATION CONTACT: Mr. G. Dean Fogle, Commercial, AC 202–274–6431, AUTOVON 284–6433.

(5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301–2314; DoD Directive 5105.22.)

By Order of the Director.

William I. Starrett, Jr.,

Captain, SC, USN, Staff Director, Administration.

Miscellaneous Amendments to Subchapter

Chapter XII of Title 32 of the Code of Federal Regulations is amended as follows:

PART 1201—GENERAL PROVISIONS

Subpart C—General Policies

§ 1201.325–50 [Amended]

1. Section 1201.325–50 is amended by deleting "$25.00" in Heading and substituting "$50.00"; in title of clause by deleting "$25.00" and substituting "$50.00"; in clause paragraph by deleting "$25.00" and substituting "$50.00".

PART 1203—PROCUREMENT BY NEGOTIATION

Subpart H—Price Negotiation Policies and Techniques

2. Section 1203.805–1, paragraphs (b) and (c) are redesignated (c) and (d) and a new paragraph (b) is added to read as follows:

§ 1203.805–1 General.

* * * * *

(b) The Director/Deputy Director, Contracting and Production shall be notified of any significant change in negotiation objectives. A copy of the notification memorandum shall be incorporated into the contract file.

PART 1214—PROCUREMENT QUALITY ASSURANCE

Subpart C—Contract Provisions

§ 1214.305–2 [Amended]

3. Section 1214.305–2 is amended by adding the following sentence at end of paragraph:

Conversely, if the supplier insists on source inspection for non-critical or non-complex items which are normally assigned for destination inspection, recommend this matter be negotiated with adequate consideration flowing to the Government, on a case-by-case basis, for the added cost of performance of unnecessary Government technical inspection at source.

4. Section 1214.307 is added to read as follows:

§ 1214.307 Place of acceptance.

In addition to provisions of DAR 14–307, when a contract provides for Government procurement quality assurance at source, only one inspection point (location) shall be designated for each contract line or sub-line item. This is necessary to effectively exercise the Certificate of Conformance clause and to prevent increased administrative costs to the Government involved in multiple inspection points.

PART 1216—PROCUREMENT FORMS

SUBPART H—MISCELLANEOUS FORMS

5. Section 1216.850 is revised to read as follows:

§1216.850 Special quality assurance instructions.

1216.850.1 *General.* DLA Form 970, Special Inspection Requirements, is designed to be used by the PCO and his quality assurance specialist to inform the inspection activity at source or destination, as appropriate, of pertinent contract requirements, identification of critical application items if not done so in the contract, special product inspection or verification required, and to provide quality history of the product and contractor (see 1201.903.1(a) and 1214.306(c)). The form also provides the name, address and phone number of the cognizant quality assurance specialist at the DSC.

1216.850.2 *Conditions for Use.* DLA Form 970 shall be used on contracts when:

(a) There is unfavorable quality history for the product or the contractor;

(b) Special inspection is required at destination;

(c) It is necessary to identify critical application item or characteristics not so designated in the contract;

(d) The purchase is for a new item or the award is made to a new contractor for which there is no quality history, except when the purchase is made using the Fast Payment procedure.

1216.850.3 *Procedures.* Two copies of the completed from will be forwarded to the cognizant inspection activity or attached to inspection element copies of contracts when distributed.

1216.850.4 *General Instructions for Preparing DLA Form 970.* Instructions for block entries are as follows:

Title and/or Instructions

Block No:

8 *Contract Quality/Inspection Requirements*—Identify the contract quality/inspection requirements using DAR 14–301 as a guide.

9 *Certificate of Conformance*—Indicate "Required" when the CoC clause (see 1214.306(c)(1) is included in the contract and it is assigned for destination inspection. Indicate "Optional" when the CoC clause is included in the contract and it is assigned for source inspection.

11 *Authority for Acceptance of Nonconforming Supplies and Services is Withheld in Accordance with DAR 14–406(d).* Use only when PCO retains authority.

12 *Special Contractor Examination and Tests.* Identify any special contractor examinations and tests which should be witnessed or verified. Also, identify any special contractor examinations or tests for which the DSC quality assurance specialist desires to be present.

13 and 13a To inform when and for what purpose DSC technical representatives will participate in the contractor test program (source inspection only).

14 To provide verification test requirements and laboratory address.

15 *Product Quality History.* To provide pertinent information on problems experienced and possible trouble areas.

16 *Contractor Quality History.* To provide a pertinent general summary of contractor's past performance, where the performance may affect the quality of the supplies or services being contracted. Statements which because of their sensitive nature would have to be classified as "For Official Government Use Only" will be avoided. If sensitive data must be provided, a statement to the following effect will be included: "The Government representative should contact the individual shown in Block 18 for specific details relating to the quality history of the contractor."

[FR Doc. 79–27848 Filed 9–6–79; 8:45 am]

BILLING CODE 3620–01–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR 1152

Employee Responsibilities and Conduct

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final rules.

SUMMARY: The Chairperson of the Architectural and Transportation Barriers Compliance Board is adopting final rules on employee responsibilities and conduct. The rules being adopted were first promulgated by the Civil Service Commission, and the Office of Personnel Management (successor agency to the CSC) as approved the

Board's request for adoption of the CSC rules.

EFFECTIVE DATE: September 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Allison, Office of Public Information, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW., Washington, D.C. 20201 (202/245-1591).

SUPPLEMENTAL INFORMATION:

Under Executive Order 11222, each agency is responsible for issuing regulations on standards of ethical and other conduct for its employees, providing interpretations and advice to its employees, and for enforcing its regulations. The Civil Service Commission (CSC) (now the Office of Personnel Management (OPM)) regulations which implemented the Executive Order require each agency head to prepare, and submit to the OPM for approval, regulations to implement the requirements of law, the Executive Order, and the CSC regulations. 5 CFR 735.102(a).

The A & TBCB Chairperson sent her request to OPM for its approval for the Board to adopt the CSC regulations for application to the Board employees which the OPM approved. The Chairperson submits this notice to the **Federal Register** announcing the applicability of the CSC regulations to the A & TBCB employees. These actions are in accordance with 5 CFR 735.104(f).

The A & TBCB is also issuing Part 1152 which adopts the CSC regulations 5 CFR Part 735 so that it will be available to those Board employees who may need it. Part 1152 was cleared with the Office of Personnel Management in July 1979.

Since this regulation is a matter relating to Board management and personnel, notice and public procedure and deferred effective date are unnecessary.

Accordingly, the Board hereby adds the following new Part 1152 to 36 CFR Chapter XI, effective on September 7, 1979, as follows:

PART 1152—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Subpart A—General Provisions

Sec.
1152.735–101 Purpose.
1152.735–102 Definitions.
1152.735–103 Interpretation and advisory service.
1152.735–104 Reviewing statements and reporting conflicts of interest.
1152.735–105 Disciplinary and other remedial action.

Subpart B—Ethical and Other Conduct and Responsibilities

1152.735–201 Proscribed actions.
1152.735–202 Gifts, entertainment, and favors.
1152.735–203 Outside employment and other activity.
1152.735–204 Financial interests.
1152.735–205 Use of Government property.
1152.735–206 Misuse of information.
1152.735–207 Indebtedness.
1152.735–208 Gambling, betting, and lotteries.
1152.735–209 General conduct prejudicial to the Government.
1152.735–210 Miscellaneous statutory provisions.

Subpart C—Ethical and Other Conduct and Responsibilities of Special Government Employees

1152.735–301 Use of Government employment.
1152.735–302 Use of inside information.
1152.735–303 Coercion.
1152.735–304 Gifts, entertainment, and favors.
1152.735–305 Miscellaneous statutory provisions.

Subpart D—Statements of Employment and Financial Interests

1152.735–401 Employees required to submit statements.
1152.735–402 Employee's complaint on filing requirement.
1152.735–403 Certain members not required to submit statements.
1152.735–404 Time and place for submission of employees' statements.
1152.735–405 Supplementary statements.
1152.735–406 Interests of employees' relatives.
1152.735–407 Information not known by employees.
1152.735–408 Information not required.
1152.735–409 Confidentiality of employees' statements.
1152.735–410 Effect of employees' statements on other requirements.
1152.735–411 Procedure for obtaining waivers of the applicability of the Federal conflicts of interest statutes.
1152.735–412 Specific reporting requirements for special Government employees.

Appendix A—List of Positions Subject to Subpart D.

Appendix B—Confidential Statement of Employment and Financial Interests.

Authority: E.O. 11222; 5 CFR 735, unless otherwise noted.

Subpart A—General Provisions

§ 1152.735–101 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the Board's regulations prescribing standards of conduct and responsibilities, and governing statements reporting employment and financial interests for employees and special Government employees.

§ 1152.735–102 Definitions.

(a) "Board" means the Architectural and Transportation Barriers Compliance Board.

(b) "Employee" means an officer or employee of the Board but does not include a special Government employee, public member, or a member of the uniformed services.

(c) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(d) "Special Government employee" means a "special Government employee," as defined in section 202 of Title 18 of the United States Code, that is, one appointed to serve with or without compensation, for not more than 130 days during any period of 365 days on a full-time or intermittent basis, who is employed on the Board, including a Public Member, but does not include a member of the uniformed services.

(e) "Public Member" means a member appointed by the President from among members of the general public.

(f) "Uniformed services" has the meaning given that term by Section 2101 of Title 5, United States Code.

§ 1152.735–103 Interpretation and advisory service.

(a) The General Counsel is designated Counselor for the Board to provide guidance on matters relating to ethical conduct and shall serve as the Board's designee to the Office of Personnel Management on matters covered by this part. He/she shall be responsible for coordination of the Board's counseling services provided under paragraph (b) of this section.

(b) The counseling services provided by the Office of the General Counsel include the giving of advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and other matters covered by this part.

(c) If an employee is in doubt about any matter covered by this part, or has a question as to the propriety of a past or contemplated line of conduct, he/she should discuss the problem with his/her immediate supervisor, or the Office of General Counsel.

(d) Requests for interpretative rulings concerning the applicability of the new order and regulations in this part in implementation thereof may be submitted to the Office of the General Counsel.

§ 1152.735–104 Reviewing statement and reporting conflicts of interest.

(a) Statements of employment and financial interests submitted under Subpart D of this part shall be reviewed by the Executive Director. Financial statements of all employees shall be filed in the Office of the Executive Director.

(b) When a statement submitted under Subpart D of this part or information from other sources indicates a conflict between the interests of an employee or special Government employee and the performance of his service for the Government, the employee, or special Government employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict.

(c) When after explanation by the employee or special Government employee involved, the conflict or appearance of conflict is not resolved by the General Counsel, the information concerning the conflict or appearance of conflict shall be reported to the Chairperson for appropriate administrative action.

§ 1152.735–105 Disciplinary and other remedial action.

(a) Violations of the regulations in this part by an employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(b) When after consideration of the explanation of the employee or special Government employee provided by § 1152.735–104(b), the Chairperson decides that remedial action is required, he/she shall take immediate action to end the conflicts or appearance of conflicts of interest. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or special Government employee of his/her conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders and regulations.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§ 1152.735–201 Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

§ 1152.735–202 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (f) of this section, an employee shall not solicit or accept, directly or indirectly any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with his/her agency;

(2) Conducts operations or activities that are regulated by his/her agency; or

(3) Has interests that may be substantially affected by the performance or nonperformance of his/her official duty.

(b) The prohibitions of paragraph (a) of this section do not apply in the following cases:

(1) Obvious family or personal relationships, such as those between the parents, children, or spouse of the employee and the employee, when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) The acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) [Reserved]

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself/herself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in section 7342 of Title 5, United States Code.

(f) Neither this section nor § 1152.735–203 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his/her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967 (46 Comp. Gen. 689).

§ 1152.735–203 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his/her Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his/her mental or physical capacity to perform his/her Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his/her services to the Government (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, Office of Personnel Management regulations, or this part. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing or writing for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service, that depends on information obtained as a result of his/

her Government employment, except when that information has been made available to the general public or will be made available on request, or when the Chairperson or his/her designee gives written authorization for use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of the order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his/her agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

(d) [Reserved]

(e) This section does not preclude an employee from:

(1) [Reserved]

(2) Participation in the activities of national or State political parties not proscribed by law.

(3) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 1150.735–204 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his/her Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his/her Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, the Executive order, Office of Personnel Management regulations, or this part.

§ 1152.735–205 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him/her.

§ 1152.735–206 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 1152.735–203(c), directly or indirectly use, or allow the use of, official information obtained through or in connection with his/her Government employment which has not been made available to the general public.

§ 1152.735–207 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by law such as Federal, State or local taxes, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his/her employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§ 1152.735–208 Gambling, betting, and lotteries.

An employee shall not participate while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927, namely solicitations conducted by organizations composed of employees among their own members for organizational support or for benefit or welfare funds for their members, or similar Board-approved activities.

§ 1152.735–210 Miscellaneous statutory provisions.

Each employee shall acquaint himself/herself with each statute that relates to his/her ethical and other conduct as an employee of the Board and of the Government. The attention of each employee is directed to the following statutory provisions:

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service".

(b) Chapter II of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(c) The prohibition against lobbying with appropriate funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The provision relating to honoraria for speeches (2 U.S.C. 441 (i)).

(f) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against the misuse of Government vehicle (31 U.S.C. 638a(c)).

(i) The prohibition against the miuse of the franking privilege (18 U.S.C. d7d1).

(j) The prohibition against the use of deceit in an examination of personnel action in connection with Government employment (18 U.S.C. 1917).

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(l) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against (1) embezzlement of government, money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his/her employment (18 U.S.C. 654).

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibitions against political activities in subchapter III of chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart C-Ethical and Other Conduct and Responsibilities of Special Government employees

§ 1152.735–301 Use of Government employment.

A special Government employee shall not use his/her Government employment for a purpose that is, or

gives the appearance of being, motivated by the desire for private gain for himself/herself or another person, particularly one with whom he/she has family business, or financial ties.

§ 1152.735–302 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of his/her Government employment for private gain for himself or another person either by direct action on his/her part or by counsel, recommendation, or suggestion to another person, particularly one with whom he/she has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) Special Government employees may teach, lecture, or write in a manner consistent with the provisions of § 1152.735–203(c).

§ 1152.735–303 Coercion

A special Government employee shall not use his/her Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself/herself or another person, particularly one with whom he/she has family, business, or financial ties.

§ 1152.735–304 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with such employment, shall not receive or solicit from a person having business with the agency anything of value as a gift, gratuity, loan, entertainment, or favor for himself/herself or another person, particularly one with whom he/she has family, business, or financial ties.

(b) The exceptions of § 1152.735–202(b) which are applicable to employees, are also applicable to special Government employees.

§ 1152.735–305 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself/herself with each statute that relates to his/her ethical and other conduct as a special Government employee of his/her agency and of the Government. The attention of each special Government employee is directed to those statutory provisions listed in § 1152.735–210 that are applicable to special Government employees.

Subpart D—Statements of Employment and Financial Interests

§ 1152.735–401 Employees required to submit statements.

Except as provided in § 1152.735–403, the following categories of employees shall submit statements of employment and financial interest:

(a) Employees classified at GS–13 or above who are in positions identified in the appendix to this part as positions the incumbents of which are responsible for making a Government decision or taking a Government action in regard to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprise; or

(4) Other activities where the decision or action has an economic impact on the interest of any non-Federal enterprise.

(b) Employees classified at GS–13 or above who are in positions which the Board has determined have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and carry out the purpose of law, Executive order, Office of Personnel Management regulations and this part. The positions are identified in the appendix to this part.

(c) Employees classified below GS–13 who are in positions which otherwise meet the criteria in paragraph (b) or (c) of this section. These positions have been approved by the Office of Personnel Management as exceptions that are essential to protect the integrity of the Government and avoid employees involvement in a possible conflict-of-interest situation. These positions are included among those identified in Appendix A to this part.

§ 1152.735–402 Employee's complaint on filing requirement.

Employees have the opportunity for review through the Board's grievance procedures of a complaint by an employee that his/her position has been improperly included under these regulations as one requiring the submission of a statement of employment and financial interests.

§ 1152.735–403 Employees not required to submit statements.

(a) Employees in positions that meet the criteria in § 1152.735–401(b) may be excluded from the reporting requirement when the Executive Director determines that:

(1) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote;

(2) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(3) The use of an alternative procedure approved by the Board is adequate to prevent possible conflicts of interest.

(b) A statement of employment and financial interests is not required by this subpart from the Chairperson or a full-time member of a committee, board, or commission appointed by the President. These employees are subject to separate reporting requirements under the Ethics and Government Act of 1978, Pub. L. 95–521.

§ 1152.735–404 Time and place for submission of employees' statement.

(a) An employee required to submit a statement of employment and financial interest pursuant to § 1152.735–401 and Appendix A to this part shall submit that statement on Statement of Employment and Financial Interest (a copy of which is attached in Appendix B) to the Executive Director not later than:

(1) Ninety days after the effective date of this part if employed on or before that effective date; or

(2) Thirty days after his/her entrance on duty, but not earlier than 90 days after the effective date, if appointed after that effective date.

(b) Additions to, deletions from, and other amendments of the list of positions in the appendix to this part may be made from time to time as necessary to carry out the purpose of the law, Executive Order 11222, Part 735 of the Office of Personnel Management Regulations (5 CFR Part 735), and this part. Such amendments are effective upon actual notification to the incumbents. The amended list shall be submitted at least annually for publication in the **Federal Register.**

(c) All employees shall submit their statements directly to the Executive Director for review and custody. Such statements shall be enclosed in sealed envelopes marked "Standards of Conduct—Administratively Confidential".

§ 1152.735–405 Supplementary statement.

(a) Changes in, or additions to, the information contained in an employee's statement shall be reported to the Executive Director in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required.

(b) Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest or engaging in outside employment or other activity that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of Section 208 of Title 18, United States Code, or Subpart B of this part.

§ 1152.735–407 Information not known by employees.

If any information required to be included on a statement or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his/her behalf.

§ 1152.735–408 Information not required.

This subpart does not require an employee to report information relating to his/her connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this Section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement.

§ 1152.735–409 Confidentiality of employees' statement.

(a) Each statement of employment and financial interests, and each supplementary statement, shall be held in confidence by the Board. To insure this confidentiality, the Office of Personnel Management regulations provide that:

(1) The Board shall designate which officials and employees are to review and retain the statements;

(2) Officials and employees designated under paragraph (a)(1) of this section are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part; and

(3) The Board may not disclose information from a statement except as the Office of Personnel Management or the Chairperson may determine for good cause shown.

(b) For the purpose of carrying out the provisions of paragraph (a)(1) of this section, the Executive Director shall review and retain employees' statements.

§ 1152.735–410 Effect of employee's statements on other requirements.

The statements and supplementary statements required of employees pursuant to this part are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him/her or any other person to participate in a matter in which his/her or the other person's participation is prohibited by law, order, or regulation.

§ 1152.735–411 Specific provisions for special Government employees.

(a) Except as provided in paragraph (c) of this section, each special Government employee shall submit to the Executive Director for review and custody Statement of Employment and Financial Interest (See Appendix B).

(b) The provisions of § 1152.735–407 through 1152.735–410 are applicable to a special Government employee who is required to file a statement.

(c) The Chairperson or his/her designee may waive the provisions of this section for the submission of a statement in the case of a special Government employee who is not a consultant or an expert when the Board finds that the duties of the position held by that special Government employee are of a nature and at such level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(3) A specialist appointed for intermittent confidential intelligence consultation of brief duration.

(d) A statement of employment and financial interest required to be submitted under this section shall be submitted not later than the time of employment of the special Government employee. Each special Government employee shall keep his/her statement current throughout his/her employment with the Board by the submission of supplementary statements.

Appendix A—List of Positions Subject to Subpart D

Officers and employees in the following positions are subject to the provisions of Subpart D of this part:

Chairperson
Board Members
Liaison Officers
Executive Director
Administrative Officer
Director, Office of Compliance and Enforcement
Director, Office of Public Information
Director, Office of Technical Services
Director, Office of Policy, Planning, and Program Development
Program Analysts

Appendix B

BILLING CODE 4110–12–M

CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS

(FOR USE BY SPECIAL GOVERNMENT EMPLOYEES)

PART I – TO BE COMPLETED BY EMPLOYING ORGANIZATION (Organization completes Parts III & IV after appointee completes Part II)

NAME *(Last, First, Initial)*	BIRTH DATE *(Month, Day, Year)*

ORGANIZATION LOCATION *(Principal Operating Component, Bureau, Division)*	PERIOD OF APPOINTMENT IN THIS PRINCIPAL OPERATING COMPONENT FROM: TO:	EST. NO. DAYS SERVICE TO BE PERFORMED

PART II – TO BE COMPLETED BY APPOINTEE

Information to Appointee: *Completion of this form is required for all experts and consultants and for other persons who work 130 days or less a year identified by the head of the principal operating component. The information to be furnished on this form is required by Executive Order 11222 and the regulations issued thereunder. The information you disclose will be used to determine whether a conflict exists between your employment and financial interests and the performance of your services for the Government. The information will be held in confidence and will not be disclosed except as the Chairman of the Civil Service Commission or the head of the principal operating component or designee may determine for good cause shown. The information may be used: a) by a Federal, state or local agency when there is an indication of a violation or potential violation of law; b) by a Federal agency in deciding on the hiring or retention of an employee or other benefit; or c) for other routine uses published in accordance with 5 USC 552a. Unless you provide the information requested on this form, the organization will not be able to utilize your services.*

Information is not required relating to an employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants from or contracts with the Government are deemed to be "business enterprises" for purposes of this report and should be included.

FEDERAL GOVERNMENT EMPLOYMENT – *List all other Federal agencies [redacted] in which you are presently employed. Please specify the organization in as much detail as possible. IF NONE, WRITE "NONE."*

AGENCY	LOCATION *(Street, City, State)*	TITLE OR KIND OF POSITION	APPOINTMENT PERIOD		EST. NO. OF DAYS
			FROM	TO	

NON-FEDERAL EMPLOYMENT – *List all corporations, companies, firms, state or local government organizations, research organizations and educational and other institutions, domestic or foreign, in which you are serving as employee, officer, member, owner, trustee, director, expert, advisor, or consultant, with or without compensation, including on a part-time or seasonal basis. IF NONE, WRITE "NONE."*

NAME AND LOCATION OF ORGANIZATION *(City and State)*	KIND OF ORGANIZATION *(e.g., Manufacturing, research, insurance)*	TITLE OR KIND OF POSITION

FINANCIAL INTERESTS – *List all organizations in which you, your spouse, minor child, partner, or an organization with which you are connected have financial interests which relate directly or indirectly to your consultancy duties. IF NONE, WRITE "NONE."*

NAME OF ORGANIZATION	KIND OF ORGANIZATION *(Manufacturing, storage, public utilities, etc.)*	NATURE OF INTEREST AND IN WHOSE NAME HELD

I CERTIFY *that the statements I have made are true, complete, and correct to the best of my knowledge and belief.* **I UNDERSTAND** *that if, during the period of my appointment, I undertake a new employment I must promptly file an amended statement, and I must also report any new financial interest acquired during this period if related directly or indirectly to my consultancy duties.*

(Signature) *(Date Signed)*

PART III – TO BE COMPLETED BY EMPLOYING ORGANIZATION

A. ESTIMATED NO. OF DAYS ON WHICH SERVICES ARE TO BE PERFORMED DURING REMAINING PORTION OF THE APPLICABLE 365 DAY PERIOD (see FPM 735-C-2, para. d):

____ (1) With this principal operating component

____ [redacted]

____ (3) With other Federal agencies

____ SUM OF (1), (2) and (3) ABOVE

B. NUMBER OF DAYS ALREADY WORKED DURING THE APPLICABLE 365 DAY PERIOD:

____ (1) For A&TBCB

____ (2) For other Federal agencies

____ SUM OF (1) and (2) ABOVE

C. TOTAL NUMBER OF DAYS (SUM OF A AND B ABOVE): _____

D. FOR APPLICABILITY OF CONFLICT OF INTEREST STATUTES (see FPM 735-C), APPOINTEE IS DESIGNATED AS A:

☐ SPECIAL GOVERNMENT EMPLOYEE

☐ REGULAR GOVERNMENT EMPLOYEE

PART IV – REVIEW BY EMPLOYING ORGANIZATION

See A&TBCB Regulations on Standards of Conduct, especially Sec. 1152.735-404(a).

NAME	DATE	REMARKS
		☐ NO CONFLICT NOTED ☐ SEE ATTACHED
		☐ NO CONFLICT NOTED ☐ SEE ATTACHED
		☐ NO CONFLICT NOTED ☐ SEE ATTACHED

BILLING CODE 4110-12-C

Donald Elisburg,
Vice Chairperson, Architectural & Transportation Barriers Compliance Board.
August 24, 1979.

[FR Doc. 79-27838 Filed 9-6-79; 8:45 am]
BILLING CODE 4110-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1309-8]

Delayed Compliance Order for A. P. Green Refractories Co., Freeport, Tex.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order (DCO) to A. P. Green Refractories Co. The DCO requires the company to bring air emissions from its shaft kiln stack into compliance with certain regulations contained in the federally approved Texas State implementation plan (SIP). Source compliance with the DCO would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulation covered by the Order during the period the order is in effect.

DATES: This rule takes effect on September 7, 1979.

ADDRESS: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying during normal business hours at U.S. Environmental Protection Agency, Region 6, Air Enforcement Branch, Enforcement Division, First International Building, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: James L. Veach, EPA, Region 6, First International Building, 1201 Elm Street, Dallas, Texas 75270, telephone (214) 767-2760.

SUPPLEMENTARY INFORMATION: On June 7, 1979, the Regional Administrator of EPA's Region 6 office published in the **Federal Register**, 44 FR 32715 (1979) a notice proposing approval of a Delayed Compliance Order to A. P. Green Refractories Co. The notice asked for public comments by July 9, 1979, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the Delayed Compliance Order is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places A. P. Green Refractories Co. on a schedule to bring the shaft kiln in Freeport, Texas, into compliance as expeditiously as practicable with Texas Air Control Board Regulation I, Rule 105.1 and Rule 103.1, parts of the federally approved Texas State implementation plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(c) and 113(d)(7) of the Act. If the conditions of the Order are met, it will permit A. P. Green Refractories Co. to delay compliance with the SIP regulations covered by the Order until July 1, 1979. The facility was unable to immediately comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place A. P. Green Refractories Co. on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the Texas State implementation plan.

(42 U.S.C. 7413(d), 7601.)

Dated: August 31, 1979.

Douglas M. Costle,
Administrator.

In the consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.480 to read as follows:

§ 65.480 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the act.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulations involved	Final compliance date
A. P. Green Refractories Company.	Freeport, Tex	DCO-TX-79-1	June 7, 1979	TACB Reg. I, Rule 105.1 and 103.1.	June 30, 1979

[FR Doc. 79-27996 Filed 9-6-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 125

[FRL 1314-3]

Modification of Secondary Treatment Requirements for Discharge Into Marine Waters

AGENCY: United States Environmental Protection Agency ("EPA").

ACTION: Notice on Native Alaskan Villages.

SUMMARY: This notice delineates EPA's position on the applicability of 40 CFR Part 125 to Native Alaskan Villages and EPA's intention to consider other methods and alternative technologies for meeting the wastewater treatment needs in these native villages.

FOR FURTHER INFORMATION CONTACT: Ronald DeCesare, 301(h) Task Force Manager, Office of Water Program Operations (WH-546), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, 202/426-8973.

SUPPLEMENTARY INFORMATION: On June 15, 1979, EPA published final regulations implementing section 301(h) of the Clean Water Act ("the Act"), as amended. These final regulations establish the criteria and standards to be applied by EPA in acting on section 301(h) applications for modification to the secondary treatment requirements of the Act.

In the preamble to EPA's proposed section 301(h) regulations (43 FR 17484, 17486, April 25, 1978), EPA solicited comments on the question of whether and under what circumstances a special category could be established for small villages in Alaska, the Pacific Trust Territories and Puerto Rico. Additionally, the Agency solicited comments on how provisions of the Act other than section 301(h) might be utilized to provide assistance to these communities in dealing with their very singular health, social, economic, and water pollution control problems. The Agency, in requesting comments, recognized that many of the communities exist at near subsistence levels and do not have the technological ability either to construct and maintain secondary treatment facilities or to complete a section 301(h) permit application. Furthermore, in many cases, they have no existing collection and treatment systems and wastes are

transported from individual homes to tundras or streams which flow into the ocean.

A number of comments were received in response to EPA's request. Most commenters reiterated the unique problems of these communities and suggested that the Agency should either automatically grant section 301(h) modifications to these communities or vastly simplify the application process for them. A few commenters pointed out that section 301(h) contains no basis for excluding these communities from the application process.

In response to these comments, EPA stated in the final regulations that while section 301(h) did not allow either for automatic section 301(h) modifications or categorical exemptions from NPDES permit requirements, the Agency was aware of Congressional concern for the particular problems of these communities. The Clean Water Act, Section 113, 33 U.S.C. 1263, 44 FR 34784, 34792 (June 15, 1979). In section 113, Congress specifically authorized the Agency to enter into agreements with the State of Alaska and to coordinate and cooperate with other Federal agencies in conducting research and demonstration projects leading to the development of a comprehensive program for achieving adequate sanitation services in Native Alaskan Villages.

In consideration of Congress' expressed concerns and EPA's recognition that these native villages have more immediate needs for providing basic health protection, EPA has concluded that these native villages need not apply for a section 301(h) modified permit. The Agency will use discretion in scheduling secondary treatment, with the short term emphasis on meeting immediate public health needs. Attention will be given to examining alternatives to traditional secondary treatment, including individual systems and best practicable wastewater treatment technology including land treatment and disposal of effluents.

Ninety-five Alaskan communities submitted preliminary applications indicating that they intended to seek section 301(h) modified permits. EPA has concluded that seventy-six of these communities are Native Alaskan Villages as defined in the Alaska Native Claims Settlement Act, Pub. L. 92–203, as amended, 43 USC 1601, et seq., as follows:

Alaskan Native Villages Which Submitted Preliminary 301(h) Applications

Akhiok
Akutan
Anaktuvak Pass
Angoon
Atka
Atkasook
Barrow
Bethel
Brevig Mission
Chignik
Chignik Lagoon
Clarks Point
Craig
Deering
Dillingham
Egegik
Ekuk
Elim
English Bay
False Pass
Gambell
Golovin
Goodnews Bay
Hoonah
Hydaburg
Ivanoff Bay
Kake
Kaktovik
Karluk
Kasaan
King Cove
Kipnuk
Kivalina
Klawock
Kongiganak
Kotzebue
Koyuk
Kwigillingok
Larsen Bay
Little Diomede
Mekoryuk
Naknek
Nelson Lagoon
Nikolski
Nuiqsut
Old Harbor
Ouzinkie
Perryville
Pilot Point
Platinum
Point Hope
Point Lay
Port Graham
Port Heiden
Port Lions
Portage Creek
Quinhagak
St. George
St. Michael
Sand Point
Savoonga
Saxman
Seldovia
Shaktoolik
Shishmaref
South Naknek
Stebbins
Teller
Togiak
Toksook Bay
Tununak
Unalakleet
Unalaska
Wainwright
Wales
Yakutat

EPA has made no determination as to whether these villages qualify to apply for a section 301(h) modified permit, should they choose to submit final applications.

By this notice, EPA simply identifies which of the Alaskan section 301(h) preliminary applicants are considered Native Alaskan Villages, clarifies its policy that these native villages need not apply for a section 301(h) modification, and reaffirms the Agency's intention to examine alternative methods of meeting their wastewater treatment needs.

Dated: August 30, 1979

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-27991 Filed 9-6-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 1-4

[FPR Temp. Reg. 46, Supp. 2]

Use of Small Purchase Procedures and Schedule Contracts for Automated Data Processing (ADP) Requirements

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement to FPR Temporary Regulation 46 extends the expiration date of the regulation. It also removes the exception in the lead paragraph of § 1–4.1103–1 which limits the delegation of procurement authority to agencies regarding hardware monitors for measuring computer performance. In addition, the definition of ADP equipment is expanded. These changes are required to recognize the recent reclassification of items into FSC Group 70 and to provide revised procedures for the procurement of computer hardware monitors. The intended effect is to lower procurement costs and decrease the action time for the procurement of ADP items.

DATE: Effective date: September 7, 1979. Expiration date: September 30, 1980, unless earlier revised or superseded.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate (703–557–8947).

SUPPLEMENTARY INFORMATION: Supplement 1 to FPR Temporary Regulation 46 (44 FR 21792, Apr. 12, 1979) is canceled. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

In 41 CFR Chapter 1, FPR Temporary Regulation 46, Supplement 1 is deleted from and Supplement 2 is added to the appendix at the end of the chapter.

Federal Procurement Regulations, Temporary Regulation 46, Supplement 2

To: Heads of Federal agencies.

Subject: Use of small purchase procedures and schedule contracts for automated data processing (ADP) requirements.

1. *Purpose.* This supplement 2 extends the expiration date of FPR Temporary Regulation 46, authorizes agencies to procure hardware monitors, and clarifies the definition of ADP equipment.

2. *Effective date.* This supplement 2 is effective September 7, 1979.

3. *Expiration date.* This supplement 2 and the related FPR Temporary Regulation 46 expire September 30, 1980, unless earlier revised or superseded.

4. *Background.* a. FPR Temporary Regulation 46 provides for the use of small purchase procedures in ADP procurements, revises the procurement procedures agencies are required to use for competitive ADP procurements which do not exceed $300,000, and provides interim procedures concerning the use of ADP schedule contracts. The procurement authority delegated to Federal agencies currently does not include hardware monitors used to measure computer performance.

b. The Federal Computer Performance Evaluation and Simulation Center, operated by the Department of the Air

Force under a delegation of authority from the Administrator of General Services, is authorized to award or authorize the award of all Government contracts for hardware monitors. The Center's experience indicates that the exception for hardware computer performance monitors from the delegation of procurement authority provisions in the FPR should be eliminated and that the monitors should be procured in accordance with the general provisions of the FPR.

c. A number of items heretofore classified under FSC Group 74 recently were reclassified into FSC Group 70. This action makes it necessary to clarify the definition of ADP equipment.

5. *Explanation of changes.* a. The expiration date for FPR Temporary Regulation 46 is extended to September 30, 1980.

b. Section 1–4.1102–1 is amended to add paragraph (d) as follows:

§ 1–4.1102–1 Automatic data processing equipment.

* * * * *

(d) Devices used for special purposes, e.g., word processing equipment and phototypesetting machines, which are classified under FSC Group 70.

Note.—In addition to the requirements of this regulation, the acquisition of Joint Committee on Printing (JCP) controlled equipment in FSC Group 70, e.g., phototypesetting machines, continues to be subject to the Government Printing and Binding Regulations.

c. Section 1–4.1103–1 (see subparagraph 5b of FPR Temporary Regulation 46) is amended to remove the exception in the lead paragraph for hardware monitors used to measure computer system performance. The section now reads as follows:

§ 1–4.1103–1 Automatic data processing equipment.

Except as indicated in § 1–4.1103–4 regarding potential use of the ADP Fund and in Federal Property Management Regulations (FPMR) Subpart 101–36.3 with respect to the use of excess ADPE, agencies may procure ADPE without prior approval of GSA or the Federal Computer Performance Evaluation and Simulation Center provided:

* * * * *

6. *Effect on other issuances.* Supplement 1 to FPR Temporary Regulation 46 is canceled.

Dated: August 31, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79–27908 Filed 9–6–79; 8:45 am]

BILLING CODE 6820–82–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Valentine National Wildlife Refuge, Nebr., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

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

DATES: September 15, 1979 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebraska 69201 Telephone: 402–376–3789.

SUPPLEMENTARY INFORMATION:

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

Public hunting of deer on Valentine National Wildlife Refuge, Nebraska, is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on the maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colorado 80225. Hunting shall be in accordance with all State regulations covering the hunting of deer.

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

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Valentine National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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

Robert M. Ellis,

Refuge Manager.

July 26, 1979.

[FR Doc. 79–27857 Filed 9–6–79; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 32

Opening of Valentine National Wildlife Refuge, Nebraska to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

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

DATES: Pheasant Nov. 3, 1979–Jan. 7, 1980; Grouse Sept. 15–Nov. 4, 1979.

FOR FURTHER INFORMATION CONTACT: Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebraska 69201 Telephone: 402–376–3789.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of pheasant and grouse on Valentine National Wildlife Refuge, Nebraska, is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, CO 80225. Hunting shall be in accordance with all State regulations covering the hunting of pheasant and grouse.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations,

Part 32. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Valentine National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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

Robert M. Ellis,

Refuge Manager.

August 29, 1979.

[FR Doc. 79–27858 Filed 9–6–79; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 32

Opening of Valentine National Wildlife Refuge, Nebr. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

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

DATES: October 13, 1979–January 3, 1980.

FOR FURTHER INFORMATION CONTACT: Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebraska 69201 Telephone: 402–376–3789.

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

Public hunting of ducks on Valentine National Wildlife Refuge, Nebraska, is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colorado 80225. Hunting shall be in accordance with all State regulations covering the hunting of ducks.

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

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistant with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Valentine National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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

Robert M. Ellis,

Refuge Manager.

August 29, 1979.

[FR Doc. 79–27884 Filed 9–6–79; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 32

Opening of the Chincoteague National Wildlife Refuge, Virginia, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

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

DATES: (October 13, 1979 through January 4, 1980.)

FOR FURTHER INFORMATION CONTACT: J. C. Appel, Chincoteague National Wildlife Refuge, Box 62, Chincoteague, Virginia, 23336 Telephone No. 804–336–6122.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Chincoteague National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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

Public hunting of deer is by special permit only on designated areas shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all state regulations subject to the following special conditions:

1. Species to be taken: (a) Archery Hunt—Sika and Whitetail deer, (b) Stag Hunt—Sika and Whitetail deer.

2. Bag Limits: (a) Archery Hunt—One per day, three per license year, (b) Stag Hunt—One per day, three per license year. The first deer must be an adult female or a buck with unbranched antlers. The second and third deer may be either an adult female, a buck with unbranched antlers, or a trophy stag (five points or better), but bag limit of three may not include more than one trophy stag or more than two adult females.

3. Season: (a) Archery—Will coincide with the State archery deer season. (b) Stag Hunt will occur within the State deer season, but will be restricted as stated in hunter permits.

4. Hunting equipment: (a) Archery—Long bow, Recurve, or Compound bow and arrows (cross bow prohibited). Archers must use broadheads with blades at least ⅞ inches wide and bows capable of propelling any arrow in their possession 125 yards. All arrows in an archer's possession while hunting must be permanently marked with hunter's name and address. Archers may not have firearms or illegal archery equipment in their possession while hunting. Quivers must have broadheads covered. (b) Stag Hunt—All firearms must function as a single shot only. Modern firearms may be used if modified to hold only one round. Rifles of .23 caliber or larger and shotguns of 20 gauge or larger will be permitted. Slugs only will be permitted in shotguns. Possession of firearms or ammunition on the refuge which is not stipulated as permitted in these regulations is prohibited.

5. Dogs are prohibited.

6. Hunting hours—Same as State hunting hours. All hunters must be clear of hunting areas by two hours after the close of legal hunting hours.

7. Carrying loaded firearms or nocked arrows in or on a vehicle or shooting from a vehicle is prohibited. Guns in vehicles must be unloaded and cased.

8. Camping and fires on refuge are prohibited.

9. All hunters under 18 years of age must be accompanied by an unarmed adult.

10. One other individual may accompany each hunter, but only the designated hunter will be allowed to carry a gun.

11. All wounded deer will be reported to refuge personnel immediately, so that data on wounded deer can be gathered.

All deer taken on the area must be brought to the maintenance area to be checked out. Jawbones may be removed by refuge personnel.

12. Shooting at wildlife other than deer is prohibited.

13. Violation of any state or federal regulation warrants withdrawal of hunting permit.

14. Before any hunter is issued a permit, he/she must meet the following Hunter Qualification Standards:

(a) All firearm hunters must provide proof of passing a state hunter safety course.

(b) Archery hunters must provide proof of passing the National Field Archery Association Bowhunters Education Program, or equivalent course. This course is required to be taken only once, but archery qualification is required each year.

(c) All hunters are required to wear a minimum of 400 total square inches of a safety fluorescence color material on the head, chest, and back.

(d) Youths who have not reached their 18th birthday must hunt under the control of a qualified adult hunter or a legal guardian.

(e) Hunters/Applicants must have a written certification from a range officer (civilian or military), police officer, or refuge personnel that they have performed the following qualification test or tests:

(1) Archery: Place three out of five shots in the 9"×14" chest area of a standard size deer target at 25 yards.

(2) Rifle, shotgun with rifle slugs, and muzzleloaders: Place three consecutive shots in a 12-inch bullseye from 50 yards or better from an offhand position. This is a lifetime qualification subject to verification.

(f) All hunters must carry into the field a police-type (metal) whistle, for use in emergency circumstances.

(g) All hunters will be charged a $10 special recreation permit fee.

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

Note.—The 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.

William C. Ashe,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 27, 1979.

[FR Doc. 79-27854 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Eastern Neck National Wildlife Refuge, Maryland, to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

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

DATES: (October 6, 1979, through December 31, 1979).

FOR FURTHER INFORMATION CONTACT: Phillip Feiger, Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, Maryland 21661, Telephone No. 301–639–7056

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that is is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established: and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Eastern Neck National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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

Public hunting of white-tailed deer on the Easter Neck National Wildlife Refuge, Maryland, is permitted on all areas except county roads, parking areas, and areas designated by signs as closed to hunting. This open area, comprising 1,996 acres, is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be

in accordance with all State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) White-tailed deer may be taken from sunrise to sunset during the following open seasons:

Archery only: October 6, 8, 10, and 13, 1979

Muzzle-loading longarm only: October 29, 31, and November 3, 1979

Shotgun only: November 19, 21, and 24, 1979

(2) Bag limits: One deer, either sex.

(3) All participants in the deer hunt must check in an out at the refuge check station before entering or leaving the refuge. All deer killed must be presented for examination at the refuge check station on the day killed.

(4) Hunters may not enter the refuge earlier than one-half hour before sunrise and must check out no later than one hour after sunset.

(5) Possession of loaded firearms, including arrows notched in bows, is not permitted on county blacktop roads, in parking areas, in or on vehicles, and before shooting hours.

(6) All hunters must enter and leave by way of State Road 445 only. Entry by boat is not permitted.

(7) During all refuge hunts, hunters must furnish and wear, so as to be readily noticeable, daylight fluorescent orange caps or hats and a minimum of 144 square inches of fluorescent orange material worn on the chest and on the back above the waistline.

(8) Hunters under 18 years of age must be accompanied by a hunting, permit-holding adult.

(9) Contained fire cooking devices will be permitted within fifty (50) feet of legally parked vehicles and in the Bogle's Wharf and Ingleside Recreation Areas.

(10) All hunters must exhibit their hunting equipment, game Federal permit, Federal qualification certificate, State hunting license, and deer-turkey stamp to Federal or State officers on request.

(11) A completed proficiency certificate will be required of all hunters. Valid proficiency certificates will be honored for three (3) years. The certificate will contain identification of shooter, identification of certifying individuals and identification of bows and firearms with which the hunter is proficient. Required proficiency levels for muzzle-loading firearm and shotgun hunters are placement of three (3) consecutive shots in a twelve (12) inch bullseye at a fifty (50) and thirty (30) yard distance respectively using an off-hand firing position. Bow hunters must successfully complete part IIB of the Bow Hunter Education Course given by the National Field Archery Association requiring the placement of three (3) out of five (5) consecutive shots in a twelve (12) inch diameter circle in the chest area of a standard deer target at varying distances from ten (10) to thirty (30) yards. All firearms, ammunition, load sizes and arrows must be legal for the taking of deer in the State of Maryland and the bows and firearms used to hunt must be the same as those used to qualify.

(12) All arrows in possession of archery hunters must have the hunter's full name and address legibly and permanently affixed with indelible ink, paint or etched into the arrow shaft.

(13) Use or possession of alcoholic beverages by hunters is not permitted during the hunt.

(14) A Federal hunt permit will be required of all participants in the deer hunts. Permits will be issued in advance of the season to hunters selected by lottery. Permits will be limited to one hundred and fifteen (115) per day for gun hunts, and one hundred and fifty (150) per day for archery hunts.

(15) The permit must be returned to the refuge at check-out or, in the case of persons unable to hunt on the day selected, the permit must be returned prior to December 31, 1979. Noncompliance with this and other regulations will subject hunter to regular penalties and, in addition, will be grounds for non-selection in future hunts.

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

Note.—The 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.

William C. Ashe,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 27, 1979.

[FR Doc. 79-27855 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Great Dismal Swamp National Wildlife Refuge, Virginia, to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulation.

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

DATES: (November 3, 10, 17, 23, 24, 1979).

FOR FURTHER INFORMATION CONTACT: Ralph M. Keel, Jr., Great Dismal Swamp National Wildlife Refuge, Box 349, Suffolk, Virginia 23434, Telephone No. 804–539–7479.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Great Dismal Swamp National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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

Public hunting of deer is permitted only on designated areas shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all state regulations subject to the following special conditions:

(1) Species to be taken: Whitetail deer.

(2) Bag Limits: One per day, either sex.

(3) Season: November 3, 10, 17, 23, 24.

(4) Hunting equipment: Shotguns only, no smaller bore than 20 gauge, loaded with buckshot and/or rifled slugs.

(5) Possession of other weapons or ammunition prohibited.

(6) Dogs are prohibited.

(7) Hunting hours—same as state hunting hours. All hunters must be clear of hunting areas by two hours after the close of legal hunting hours.

(8) Carrying loaded firearms in or on a vehicle or shooting from a vehicle is prohibited.

(9) Carrying loaded firearms in or on a refuge road or shooting from or on a road is prohibited.

(10) Camping and fires on refuge are prohibited.

(11) All hunters under 18 years of age must be accompanied by an adult.

(12) All wounded deer will be reported to refuge personnel immediately, so that data on wounded deer can be gathered. All deer taken on the area must be brought to the check station to be checked out. Jawbones may be removed by refuge personnel.

(13) Shooting at wildlife other than deer is prohibited.

(14) All hunters are required to wear a minimum of 400 total square inches of a safety fluorescence color material on the head, chest, and back.

(15) Before any hunter is issued a permit, he/she must meet the following Hunter Qualification Standards:

(a) Hunters/Applicants must have a written certification from a range officer (civilian or military), police officer, or refuge personnel that they have performed the following qualifications test or tests:

(1) Shotgun with rifle slugs: Place three consecutive shots in a 12-inch bullseye from 30 yards or better from an offhand position. This is a lifetime qualification subject to verification.

(2) Shotguns with buckshot: Place five shot pellets in a 20-inch bullseye target from a range of 30 yards.

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

Note.—The 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.

William C. Ashe,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 27, 1979.

[FR Doc. 79-27853 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Moosehorn National Wildlife Refuge, Maine, to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

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

DATES: November 3, 1979, through November 24, 1979. Saturday, November 3, will be open for Maine resident hunters only.

FOR FURTHER INFORMATION CONTACT: Douglas Mullen, Moosehorn National Wildlife Refuge, P.O. Box X Calais, Maine 04619, Telephone No. 207–454–3521.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Moosehorn National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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

Public hunting of deer on the Moosehorn National Wildlife Refuge, Maine, is permitted except on areas designated by signs as closed during the State firearms season. This open area, is shown on maps available at Refuge Headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Hunting shall be in accordance with State regulations covering the hunting of deer.

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

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.

William C. Ashe,

Regional Director, Fish and Wildlife Service.

August 30, 1979.

[FR Doc. 79-27856 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Presquile National Wildlife Refuge, Virginia, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

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

DATES: (October 12, 1979, through November 3, 1979).

FOR FURTHER INFORMATION CONTACT: Harold Olsen, Presquile National Wildlife Refuge, Box 620, Hopewell, Virginia 23860, Telephone No. 804–458–7541.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Presquile National Wildlife Refuge was established. This determination is based upon consideration of, among other

things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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

Public hunting of white-tailed deer on the Presquile National Wildlife Refuge is permitted on the entire refuge except within 200 yards of all buildings. Hunting shall be in accordance with all State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

1. A Federal permit will be required at no charge to the applicant. Bow hunter applicants who provide proof by September 25 of having successfully completed the National Field Archery Association Bowhunter Education Course and the weapons qualification test described below will be automatically issued a permit. Gun hunter applicants who provide proof of having passed a state approved hunter safety course by September 25 will also be automatically issued a permit. The permits remaining will be issued to hunters selected from a public drawing to be held at 1:00 p.m. on September 26 in the refuge office, Hopewell, Virginia. The only exception to this procedure would be if there were more applicants who had taken the specified safety course than there are stands available for hunting. In this case a drawing would be held for this particular group of people only. Permits are non-transferable. Alternates will also be selected from standby hunters at the ferry landing to fill stands left open by permittees who do not show up. Bow hunters must pass an archery qualification test which will consist of placing 3 out of 5 arrows in a 9 by 14 inch chest area of a standard deer size target at 25 yards. In order to be in the drawing for an archery permit, archers must submit a certification statement to the refuge office by September 25. The statement must bear the name and address of the archery range and signature of range official who actually witnessed the qualification.

2. Only white-tailed deer may be taken from one half-hour before sunrise to one half-hour after sunset with bow and arrow only on October 12, 13, 19, 20; and with shotgun on October 27 and November 3, 1979.

3. Bag limits: One deer per day, either sex.

4. All hunters must enter the refuge on the ferry at 6 a.m. e.d.t. (5 a.m. e.s.t.) except that boats with engines no larger than 10 hp. will be permitted only for those hunters who will be hunting in the swamp. All boat occupants must wear a life jacket. Before leaving the refuge, hunters must be checked out by refuge officials either at the official state checking station at the refuge headquarters or at the boat launch area on the mainland.

5. Possession of firearms on the refuge during the bow and arrow only hunts is prohibited.

6. All arrows in the possession of each hunter must be marked with the stand number issued to the hunter.

7. Only buckshot is permitted during the shotgun hunts.

8. Each hunter will be assigned a stand corresponding to his permit number. Shotgun hunters will remain on their assigned stand throughout the day's hunt. Bow hunters will remain on their assigned stand from one half-hour before sunrise to 10 a.m. From 10 a.m. to one half-hour after sunset, they may hunt anywhere within the open area.

Gun hunters must wear fluorescent orange (144 sq. inches min.) at all times; bow hunters must wear fluorescent orange when going to and from their stand, and when hunting away from their stand.

9. All hunters under 18 years of age must be accompanied by and under the immediate supervision of an adult.

10. Scouting will be permitted on October 5 and 6, 1979. The refuge ferry will take passengers to the island at 8 a.m. e.d.t. and return to the mainland at 10 a.m. and 12 noon.

11. Special regulations and maps are available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

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

Note.—The 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.

William C. Ashe,

Acting Regional Director, Fish and Wildlife Service.

August 27, 1979.

[FR Doc. 79-27852 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Groundfish of the Gulf of Alaska; Apportionment of Reserve Amounts

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Apportionment of Reserve Amounts, Final Regulations.

SUMMARY: These regulations make additional amounts of fish available to foreign fishing in accordance with the provisions of the Groundfish of the Gulf of Alaska Fishery Management Plan (FMP) and the regulations implementing this FMP (See 43 FR 56238, 50 CFR 627.20(c), and 50 CFR 611.92(b)(1)(ii)). These regulations apply to vessels of foreign nations fishing for groundfish in the Gulf of Alaska.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION:

I. Background

Because of uncertainties about specifications of U.S. capacity, particularly the extent to which U.S. vessels delivering to foreign processors at sea (joint ventures) would harvest groundfish, the FMP established a reserve of fish which could be released and added to the total allowable level of foreign fishing (TALFF) if U.S. vessels did not harvest at anticipated levels.

On August 23, 1978, the Council adopted an amendment to the FMP for groundfish which increased the reserve of pollock to 133,800 metric tons and increased reserves of species taken incidental to pollock. The purpose of these reserves was to assure that an adequate supply of fish was available to U.S. vessels wishing to sell U.S.-caught fish to foreign processing vessels at sea. The amendment was approved by the Assistant Administrator for Fisheries on September 22, 1978 (43 FR 46349).

Final regulations published on December 1, 1978 (43 FR 56238), established criteria and timing of any reserve release. The final regulations also established a procedure for public comment on the extent to which vessels of the United States would harvest reserve amounts during the remainder of the fishing year.

These regulations provide that up to 25 percent of the initial reserve amounts will be released and added to TALFF as soon as practicable after January 2, March 2, May 2, and July 2 if it is determined that U.S. fishermen will not catch these amounts during the remainder of the fishing year.

In January, 25 percent of the reserves of each species except sablefish was released. In March, 25 percent of the reserves of sablefish, but no other species, was released. In May, 25 percent of the reserves of each species except sablefish was released. Accordingly, 50 percent of the initial reserves of all species except sablefish were eligible for the July release; of the sablefish reserves, 75 percent in all fishing areas except Southeast and 100 percent in Southeast were eligible for release.

The July release was divided into two stages, the first with an effective date of July 24, 1979, and the second on August 15, 1979, or as soon as practicable thereafter. The first stage involved the release of some or all reserves in certain fishing areas. The second stage involves the release of those amounts the Regional Director has determined will not be harvested by U.S. fishermen through the end of the fishing year.

II. Determination of Amount of Reserve Release

In accordance with the requirements of 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii), the Regional Director has determined that:

1. Under the second stage of the July release, the following amounts (metric tons) of reserves of each species in each fishing area in the Gulf of Alaska will be retained for U.S. fishermen:

	Western	Central	Eastern
Pollock	50	5,400	50
Pacific cod	500	850	150
Flounder	50	100	25
Pacific Ocean perch	200	1,250	400
Rockfish	25	100	100
Sablefish	35	130	30
Atka mackerel	5	10	10
Squid	5	10	10
Other species	20	120	10

In making this determination, the Regional Director considered to what extent U.S. vessels would harvest the remaining reserves. On the basis of current and projected catch rates and projected effort the Regional Director has concluded that U.S. vessels would take only those amounts shown in the above table. Hence, it is appropriate that the balances be transferred to the TALFF.

2. The remaining amounts (metric tons) of reserves of all species in the Gulf of Alaska will be released and added to the TALFF as follows:

	Western	Central	Eastern
Pollock	0	11,600	950
Pacific cod	864	324	0
Flounder	0	0	75
Pacific Ocean perch	250	0	225
Rockfish	0	0	100
Sablefish	150	775	780
Atka mackerel	45	690	400
Squid	120	250	240
Other species	80	80	20

During the public comment period, no testimony was received that substantiated future expansion of the U.S. fishing fleet or U.S. processing intent beyond that stated in the FMP. Therefore, current domestic annual harvests (DAH) are sufficient to provide for U.S. catches that appear likely to be delivered to U.S. processors and need not be supplemented.

The other reserves remaining after this release are sufficient to provide for joint ventures. Four permits have been issued to foreign processing vessels engaged in two joint ventures; as many as 7 U.S. fishing vessels may deliver fish to foreign processing vessels this fishing year.

III. Response to Public Comments.

Ten comments were received during the comment period, two of which favored releasing certain reserves and eight of which favored retaining certain reserves. They are summarized and responded to below:

Comment: All of the available reserves of sablefish, Pacific cod, other rockfish, and "other species" should be released to TALFF to support foreign longline fishing operations for sablefish and Pacific cod.

Response: The Pacific cod and other rockfish reserves being retained are equal to the amount of those species the Regional Director estimates U.S. fishermen will deliver to foreign vessels (joint ventures). Those estimates are based on current projected catch rates and projected effort in those joint ventures. Only enough sablefish and "other species" reserves are being retained to provide for incidental catches by U.S. fishermen fishing for joint ventures.

Comment: The entire amount remaining in the reserves should be released to TALFF.

Response: For reasons stated in the above response, certain amounts of reserves will be retained.

Comment: Joint ventures will harvest all the Pacific ocean perch and Pacific cod in the Shumagin and Chirikof areas and some of both species in the Kodiak area. Joint ventures will take substantial amounts of pollock and incidental species throughout the Gulf of Alaska. To support joint ventures, therefore, reserves of Pacific ocean perch and Pacific cod in the Shumagin and Chirikof areas, certain amounts of pollock throughout the Gulf of Alaska, and sufficient amounts of incidental species should be retained for joint ventures.

Response: As shown in the above table, various amounts of reserves are being retained to support joint ventures. The rationale for retention of those amounts is stated in the response to the first comment above.

IV. Other Matters.

An environmental impact statement was prepared for the FMP for the Groundfish of the Gulf of Alaska and is on file with the Environmental Protection Agency (EPA). A negative assessment of environmental impact prepared for the reserve release provisions of the Goundfish FMP is also on file with the EPA.

The Regional Director has determined that these regulations should be effective immediately for the following reasons:

A. The regulations implementing the FMP provide adequate advance notice and invite public comment on this action;

B. No regulatory restrictions are imposed on any person as a result of this action;

C. This action relates to the extension of a benefit;

D. Immediate implementation is required to achieve full utilization of the fishery resources concerned; and

E. This action is not significant in relation to criteria prescribed by EO 12044; a regulatory analysis is not required.

Signed at Washington, D.C., this 30th day of August, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. Section 1801 *et seq.*

(A) 50 CFR 672.20 is amended by revising Table I–A—Optimum Yield and Reserves of paragraph (a) as follows:

Table I-A.—*(As Amended by Second Stage of July 1979 Reserve Release)*

Optimum Yield and Reserve, Metric Tons

Fishing Areas

Species		Western	Central	Eastern	Total
Pollock	OY	57,000	95,200	16,600	168,800
	Reserve	50	5,400	50	5,500
Pacific Cod	OY	9,600	19,400	5,800	34,800
	Reserve	500	850	150	1,500
Flounder	OY	10,400	14,700	8,400	33,500
	Reserve	50	100	25	175

Table I-A.—*(As Amended by Second Stage of July 1979 Reserve Release)*—**Continued**

Optimum Yield and Reserve, Metric Tons

Fishing Areas

Species		Western	Central	Eastern	Total
Pacific Ocean Perch (POP)	OY	2,700	7,900	14,400	25,000
	Reserve	200	1,250	400	1,850
Other Rockfish	OY	300	800	6,500	7,600
	Reserve	25	100	100	225
Sablefish	OY	2,100	3,800	7,100	13,000
	Reserve	35	130	30	195
Atka Mackerel	OY	4,400	19,400	3,000	26,800
	Reserve	5	10	10	25
Squid	OY	1,000	2,000	2,000	5,000
	Reserve	5	10	10	25
Other Species*	OY	4,400	8,600	3,200	16,200
	Reserve	20	120	10	150

* The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, rattails, and Continental Shelf fishery resources.

(B) 50 CFR 611.20 is amended by revising Table I–B of paragraph (c) as follows:

Table I-B.—*(As Amended by Second Stage of July 1979 Reserve Release)*

(1) Change lines beginning "702," "129," "207," "780," "701," "849," "703," "509," "499," to read as follows:

Species code	Species	Ocean area	TALFF (metric tons)	U.S. capacity review date
702	Cod, Pacific	Gulf of Alaska	[1] [3]17,800	Jan. 2, Mar. 2, May 2, July 2.
129	Flounders, including Yellowfin Sole.	do	[1] [3]26,125	Do.
207	Mackerel, Atka	do	[1] [3]26,775	Do.
780	Perch, Pacific Ocean (POP)	do	[1] [3]22,050	Do.
701	Pollock	do	[1] [3]149,100	Do.
849	Rockfishes Other Than POP	do	[1] [3]5,375	Do.
703	Sablefish	do	[1] [3]8,805	Do.
509	Squid	do	[1] [3]4,975	Do.
499	Other Species	do	[1] [3]15,550	Do.

[1] Annual TALFF period is November 1 through October 31.
[3] Does not include an amount held in reserve.

(C) 50 CFR 611.92 is amended by revising Table I–C—Gulf of Alaska Groundfish Fishery for 1978/1979 of paragraph (b) as follows:

Table I-C.—*(As Amended by the Second Stage of July 1979 Reserve Release)*

Gulf of Alaska Groundfish Fishery: TALFF and Reserve by Species and Fishing Area for 1978–79, Metric Tons

Fishing Areas[1]

Species		Western	Central	Eastern	Total
Pollock	TALFF	52,150	81,800	15,150	149,100
	Reserve	50	5,400	50	5,500
Pacific Cod	TALFF	4,800	9,950	3,050	17,800
	Reserve	500	850	150	1,500
Flounders	TALFF	8,150	11,400	6,575	26,125
	Reserve	50	100	25	175
Pacific Ocean Perch (POP)	TALFF	2,400	6,350	13,300	22,050
	Reserve	200	1,250	400	1,850
Other Rockfish[2]	TALFF	175	500	4,700	5,375
	Reserve	25	100	100	225
Sablefish	TALFF	1,965	3,570	3,270	8,805
	Reserve	35	130	30	195
Atka Mackerel	TALFF	4,395	19,390	2,990	26,775
	Reserve	5	10	10	25
Squid	TALFF	995	1,990	1,990	4,975
	Reserve	5	10	10	25
Other Species[3]	TALFF	4,280	8,180	3,090	15,550
	Reserve	20	120	10	150

[1] See Figure 1 of this Section 611.92(b) for description of regulatory areas.
[2] The category "other rockfish" includes all rockfishes other than Pacific ocean perch.
[3] The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead, trout, Pacific halibut, herring, rattails, and Continental Shelf fishery resources.

[FR Doc. 79-27837 Filed 9-6-79: 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 175
Friday, September 7, 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.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Parts 337, 410]

Examining System; Training

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Civil Service Reform Act of 1978 contained certain grade and pay retention provisions. The legislation authorizes (in 5 U.S.C. 5364) the Office of Personnel Management to prescribe regulations to require agencies to take several remedial actions, including steps to assure that affected employees can acquire qualifications for selection to other positions. The document implements these statutory provisions.

DATE: Written comments will be considered if received no later than November 6, 1979.

ADDRESS: Address written comments to: Assistant Director for Agency Compliance and Evaluation, Agency Relations, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Lynn Waldorf, (202) 632–4473.

SUPPLEMENTARY INFORMATION: New regulations are proposed to implement provisions of Section 5364 of title 5 concerning retention and retraining of employees subject to the grade and pay retention provisions of the Civil Service Reform Act of 1978. Specifically, (1) 5 CFR 337.102 requires agencies to evaluate qualifications for promotions in a manner which will result in the maximum number of placement opportunities for each employee. This means that work experience obtained during the time an employee is in grade retention must be rated as if the employee were in the series and grade of the position from which downgraded if doing so results in a higher ranking of the employee than obtained by rating that experience in the current series and grade; and, (2) 5 CFR 410.503 provides that an exception to the prohibition against training an employee by, in, or through a non-Government facility for the purpose of promotion if there is another employee in the agency qualified to fill the position and available within a reasonable distance from the location of the position to be filled will be inserted for employees trained under the provisions of 5 U.S.C. 5364. This exemption would be applicable only to those employees in pay retention since employees in grade retention would not be "promoted" to positions at or below their retained grade. Additionally, an exception to 5 U.S.C. 4107 (c)(1) is provided if the retraining is for a position with no greater promotion potential and at or below the employee's retained grade. This applies to employees in retained grade as well as retained pay status.

Previous to the passage of the CSRA of 1978 certain agencies had been permitted to delay until December 31, 1979, the effective date of downgradings. FPM Bulletin 273–17, March 5, 1979, entitled "Policy on Demotion Delay/ Grade Retention" cancelled the demotion delay authority in order to conform with the intent of Congress in the passage of grade retention. The Bulletin provided that agencies must take appropriate downgrading actions and develop classification and placement plans by June 30, 1979. The two regulations would permit agencies to fully utilize 5 U.S.C. 5364 (2) implementing these plans. Specifically:

(1) 5 CFR 337.102 ensures employees will receive the benefit of the most advantageous qualifications determinations, and

(2) 5 CFR 410.503 carries out the statutory directive in 5 U.S.C. 5364(2) to take appropriate steps to assure employees receiving benefits under grade and pay retention *have the opportunity to obtain necessary qualifications for the selection to positions which would minimize the need for application of such benefits.*

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM proposes to amend 5 CFR as follows:

PART 337—EXAMINING SYSTEM

(1) Part 337 is amended by adding § 337.102 as follows:

§ 337.102 Evaluating Qualifications for Employees who are in a Retained Grade.

(a) Employees who are in a retained grade must have the experience they gain subsequent to the downgrading action that placed them in a retained grade considered in the following manner. For placements during the period the employee is in a retained grade, agencies must consider the experience subsequent to the downgrading action to be either

(1) At the level of the retained grade and in the series of the position which he or she occupied at the time of the downgrading, or

(2) At the grade and in the series of the position to which the employee is downgraded.

(b) Agencies must determine which experience to consider on the basis of which will most likely result in placement. For placements or promotions after the retained grade period, the experience is considered only at the grade level and in the series of the position to which the employee ws downgraded.

(5 U.S.C. 5364)

PART 410—TRAINING

(2) Part 410, subpart E is amended by revising § 410.503 as follows:

§ 410.503 General Prohibitions, Training Through Non-Government Facilities.

(a) An agency may not authorize the training of an employee through a non-Government facility for the purpose of making a promotion if another employee with the agency is—

(1) Equal in ability and suitability;

(2) Fully qualified to fill the position; and

(3) Available within a reasonable distance from the position location.

(b) To assure adherence to the constraint of paragraph (a) of this section, the agency head shall establish policies and procedures he or she considers reasonable and necessary relating to areas of consideration and to determinations concerning—

(1) Ability;

(2) Suitability;

(3) Availability;

(4) Qualifications; and

(5) Geographic location.

(c) An exception to the constraint of paragraph (a) is granted for training an employee under the authority of 5 U.S.C. 5364.

(d) An exception to 5 U.S.C. 4107(c)(1) is provided to employees trained under the authority of 5 U.S.C. 5364 if:

(1) The career ladder of the new occupation does not provide a greater potential for promotion than the occupation from which the employee was downgraded; and

(2) The new position is at or below the employee's retained grade.

(5 U.S.C. 5364)

[FR Doc. 79-27901 Filed 9-6-79; 8:45 am]

BILLING CODE 6325-01-M

MERIT SYSTEMS PROTECTION BOARD

[5 CFR Part 432]

Federal employees; reduction in grade and removal based on unacceptable performance; request for comments on regulation review.

AGENCY: Merit Systems Protection Board.

ACTION: Request for Comments on Regulation Review.

SUMMARY: On July 31, 1979, (44 FR 44857) the Merit Systems Protection Board ("the Board") published a request for comments on the Board's review of certain interim regulations published by the Office of Personnel Management (OPM) under 5 U.S.C. Chapter 43 (performance appraisal). Comments to the Board regarding this proceeding were due by August 24 and oral arguments on the matter were scheduled for September 20. By order of August 29, 1979 the Board expanded the scope of its review and extended the period for comments. This notice sets forth the details of that order for public review.

DATE: Comments on this expanded proceeding must be received by September 17, 1979. Comments should make reference to: *In Re Wells* v. *Harris* (formerly *In Re Wells* v. *Califano*). Oral arguments will be held at 1717 Pennsylvania Avenue, NW, Room 640, Washington, D.C. at 2:00 p.m., on September 27.

ADDRESS: Send comments to Merit Systems Protection Board, Office of the Secretary, 1717 H Street, NW., Room 220, Washington, D.C. 20419.

Oral arguments will be held at 1717 Pennsylvania Ave., NW., Room 640, Washington, D.C. at 2:00 p.m.

Board orders, petitions and other papers relating to this action are available for public inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, (Federal holidays excepted) at the Merit Systems Protection Board, Office of the Secretary, 1717 H Street, N.W., Room 220, Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Donald Cox, Deputy General Counsel, on 202-653-7165.

SUPPLEMENTARY INFORMATION: On July 25, 1979 the Board granted a petition of the American Federation of Government Employees requesting review of the interim regulations of OPM implementing 5 U.S.C. Chapter 43 and specifically interim regulation 5 CFR § 432.206 as implemented by the Department of Health, Education and Welfare. Subsequently, OPM published final regulations implementing 5 U.S.C. Chapter 43 (44 FR 45587, August 3, 1979). The Board has now expanded the scope of its review to include consideration of final regulation 5 CFR § 432.205 as contained in the August 3 issuance. Additionally, the Board has requested that the parties submit further arguments or evidence addressing the issues of:

(a) whether final regulation 5 CFR § 432.205 on its face would require any employee to violate 5 U.S.C. § 2302(b)(11); and

(b) whether the Board's review of the interim regulation 5 CFR § 432.206 is rendered moot by OPM's issuance of its final regulation at 5 CFR § 432.205.

Because of the Board's request for further information from the parties involved and the public, the Board has extended the time for making such submissions until September 17 and has postponed hearing on the matter until September 27.

By Order of the Board,

Ruth T. Prokop,

Chairwoman.

[FR Doc. 79-27807 Filed 9-6-79; 8:45 am]

BILLING CODE 6325-20-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-381; Termination of Proceeding AO-381]

Apples Grown in States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination.

SUMMARY: This document terminates proceedings with respect to a proposed marketing order program because it was not favored by the required two-thirds majority of growers voting in the referendum, either by number of producers or the volume of production they represented. The proposal had been requested by the "New England Apple Marketing Order Study Committee" on behalf of producers and handlers of apples grown in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The proposed marketing order would have: Established a committee of growers and handlers for local administration; authorized establishment of maturity standards for apples; and authorized the committee to engage in production and marketing research and promotional activities to promote distribution and consumption of apples.

EFFECTIVE DATE: September 7, 1979.

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

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued October 26, 1978; published October 31, 1978 (43 FR 50691); Notice of Recommended Decision—Issued May 11, 1979; published May 17, 1979 (44 FR 28806); and Final Decision—Issued July 26, 1979; published July 31, 1979 (44 FR 44867).

PRELIMINARY STATEMENT: A public hearing was held upon the proposed marketing agreement and order (hereinafter referred to collectively as the "order") regulating the handling of apples grown in the designated States. The hearing was held at West Springfield, Mass., on December 4-5, 1978, and at Brentwood (Epping), New Hampshire, on December 7, 1978, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable procedure specified in 7 CFR Part 900.

The recommended decision of the Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, was published on May 17, 1979 (44 FR 28806). On July 31, 1979 (44 FR 44867) the final decision of the Assistant Secretary for Marketing and Transportation Services was published and directed that a referendum be conducted among producers of apples in the production area to determine whether the required percentage of producers favored issuance of the proposed order.

It is hereby determined on the basis of the referendum, conducted August 14-23, 1979, that the proposed order failed to get the required two-thirds favorable producer vote and therefore the

proposed order should not be made effective.

Accordingly, the proceeding, with respect to the proposed order, is hereby terminated.

Signed at Washington, D.C., on September 4, 1979.

Jerry C. Hill,

Deputy Assistant Secretary.

[FR Doc. 79-27981 Filed 9-6-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 904]

[Docket No. AO-385]

Grapefruit Grown in a Designated Area in California; Decision and Referendum Order on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes a marketing agreement and order regulating the handling of grapefruit grown in southeastern California. Grapefruit producers will be given the opportunity to vote in a referendum to determine if they favor the proposed marketing order.

The proposed order would establish a committee of four producers, four handlers, and one public representative for local administration. It would provide for establishment of grade, quality, size, and maturity requirements for grapefruit based on committee recommendations. Also, it would authorize the committee to engage in production and marketing research and promotional activities designed to promote distribution and consumption of grapefruit. Consumers should benefit from an improved product and producers by an expanded market.

DATE: The representative period for purposes of the referendum herein ordered is September 1, 1978, through August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone: (202) 447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing; issued February 1, 1979, and published in the **Federal Register** (44 FR 7729) on February 7, 1979; and Notice of Recommended Decision; issued July 2, 1979, and published in the **Federal Register** (44 FR 39413) on July 6, 1979.

Preliminary Statement

The proposed marketing agreement and order were formulated on the record of a public hearing held at Coachela, California, March 8-9, 1979. Notice of Hearing was published in the February 7, 1979, issue of the **Federal Register** (44 FR 7729). The notice set forth a proposed marketing order submitted by the California members of the Administrative Committee, which locally administers Federal Marketing Order No. 909.

On the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on July 5, 1979, filed with the Hearing Clerk, U.S. Department of Agriculture, a recommended decision which contained notice of the opportunity to file written exceptions thereto by July 26, 1979. One exception was filed.

Rulings on Exceptions

An exception was filed on July 30, 1979, by Paul Ames, Indio, California, on behalf of the California Grapefruit Advisory Board and the California Grapefruit Administrative Committee. The exception expressed the view that a public member on the committee should be optional with the committee. The exception was carefully and fully considered, and it is determined that the findings and conclusions and the provisions set forth in the recommended decision are appropriate and are hereby affirmed. Therefore, the exception is denied.

The material issues, findings and conclusions, rulings and general findings of the recommended decision set forth in the July 6, 1979, issue of the **Federal Register** (44 FR 39413; FR Doc. 79-20815) are hereby approved and adopted as the material issues, findings and conclusions, rulings and general findings of this decision as if set forth in full herein, subject to the following corrections:

Page	Column	Line	Change
39416	1	3	"current" to "current of".
39417	1	31	"grape fruit" to "grapefruit".
39417	1	62	"and research promotion" to "research and promotion".
39417	2	28	"provde" to "provide."

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Grapefruit Grown in a Designated Area in California", and *Marketing Order Regulating the Handling of Grapefruit Grown in a Designated Area in California,* which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, that this entire decision except the annexed marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order regulating the handling of grapefruit grown in a designated area in California is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be September 1, 1978, through August 31, 1979.

The agents of the Secretary to conduct such referendum are hereby designated to be Roland G. Harris and John H. Clark, Los Angeles Marketing Field Office, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, 417 South Hill Street, Suite 900-B, Los Angeles, California 90013.

A Final 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.

Copies of this Decision are being mailed to known interested persons. Others may obtain copies from the designated referendum agents or from Mr. McGaha.

Signed at Washington, D.C., on: September 4, 1979.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing and Transportation Services.

Marketing Order [1] Regulating the Handling of Grapefruit Grown in a Designated Area in California.

Findings

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order, regulating the handling of grapefruit grown in a designated area in California.

Upon the basis of the record it is found that:

(1) The order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order regulates the handling of grapefruit grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of grapefruit grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of grapefruit grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of grapefruit shall be in conformity to and in compliance with the following terms and conditions:

The provisions of the proposed order contained in the recommended decision issued by the Deputy Administrator on July 2, 1979, and published in the **Federal Register** on July 6, 1979 (44 FR 39413), shall be and are the terms and provisions of this order, and are set forth in full herein.

Marketing Order [1] Regulating the Handling of Grapefruit Grown in a Designated Area in California.

PART 904—GRAPEFRUIT GROWN IN A DESIGNATED AREA IN CALIFORNIA

Definitions

Sec.

904.1 Secretary.
904.2 Act.
904.3 Person.
904.4 Grapefruit.
904.5 Production area.
904.7 Producer.
904.8 Handler.
904.9 Handle.
904.10 Fiscal period.
904.11 Variety.
904.12 Committee.

Administrative Body

904.20 Establishment and membership.
904.21 Term of office.
904.22 Nomination.
904.23 Selection.
904.24 Acceptance.
904.25 Alternate members.
904.26 Vacancies.
904.27 Powers.
904.28 Duties.
904.29 Compensation and expenses.
904.30 Procedure.

Expenses and Assessments

904.34 Expenses.
904.35 Assessments.
904.36 Accounting.

Research and Market Development

904.37 Production research, marketing research, and market development.

Regulation

904.38 Marketing policy.
904.39 Recommendations for regulation.
904.41 Issuance of regulations.
904.42 Modification, suspension, or termination of regulations.
904.43 Marketing zones.
904.44 Grapefruit not subject to regulation.
904.45 Special handling permit.

Inspection and certification

904.46 Inspection and certification.

Reports

904.47 Reports.
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904.49 Verification of reports and records.

Miscellaneous Provisions

904.50 Compliance.
904.51 Right of the Secretary.
904.52 Termination.
904.53 Proceedings after termination.
904.54 Effect of termination or amendments.
904.55 Duration of immunities.
904.56 Derogation.
904.57 Personal liability.
904.58 Separability.

Authority: §§ 904.0 to 904.58, inclusive, issued under Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Definitions

§ 904.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated.

§ 904.2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1973, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ 904.3 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 904.4 Grapefruit.

"Grapefruit" means all varieties of Citrus paradisi, MacFayden, grown in the production area.

§ 904.5 Production area.

"Production area" means the following counties or their segments in the State of California described as follows: Imperial County; that part of San Bernardino County situated east of a line due north and south through Rice; that part of Riverside County situated east of a line due north and south through the Post Office in Whitewater; and that part of San Diego County situated east of a line due north and south through the Post Office in Julian.

§ 904.7 Producer.

"Producer" is synonymous with grower and means any person engaged in a proprietary capacity in the production of grapefruit.

§ 904.8 Handler.

"Handler" means any person (except a common or contract carrier of grapefruit owned by another person) who handles grapefruit in fresh form.

§ 904.9 Handle.

"Handle" means to sell, ship, consign, deliver, or transport grapefruit or cause grapefruit to be sold, shipped, consigned, delivered, or transported between the production area and any point outside thereof, or within the production area: *Provided*, That the term handle shall not include (a) the transporting or shipping of grapefruit by common carrier when such grapefruit is owned by another person; (b) the sale of grapefruit on tree; (c) the transporting of grapefruit from the point of production to a packinghouse within the production area for preparation for fresh market; or (d) the transporting of grapefruit from the point of production to a packinghouse outside the production area for preparation for fresh market under a special handling permit issued pursuant to § 904.45.

§ 904.10 Fiscal period.

"Fiscal period" is synonymous with fiscal year and means the 12-month period beginning on September 1 of one year and ending on the last day of August of the following year or such other period as the committee, with the approval of the Secretary, may prescribe.

§ 904.11 Variety.

"Variety" or "varieties" means any one or more of the following classifications or groupings of grapefruit: (a) White or golden seeded and white or golden seedless grapefruit; and (b) pink or red seeded grapefruit and pink or red seedless grapefruit.

§ 904.12 Committee.

"Committee" means the California Grapefruit Administrative Committee established under § 904.20.

Administrative Body

§ 904.20 Establishment and membership.

(a) There is hereby established a California Grapefruit Administrative Committee consisting of nine members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. Four of the members and their alternates shall be producers or officers or employees of producers, henceforth referred to as "producer members" of the committee. To the extent practicable producer members shall not be handlers or directors or employees exercising a supervisory or managerial function of a handler, but members of a cooperative marketing organization shall not be considered as handlers because of such membership. Four of the members and their alternates shall be handlers or directors, officers, or employees of a handler, henceforth referred to as "handler members" of the committee. One member and alternate shall represent the public, henceforth referred to as "public member." The public members and his or her alternate shall be nominated by the committee and selected by the Secretary.

(b) Allocation of the producer member positions shall, to the extent practicable, be at least one member to represent producers affiliated with cooperative marketing organizations, henceforth referred to as "cooperative producers", and at least one member to represent growers who are not so affiliated, henceforth referred to as "independent producers." A second producer member shall be allocated to any group (cooperative or independent) which during the fiscal period preceding the fiscal period in which nominations are made produced more than 37.5 percent but not more than 62.5 percent of the total production of grapefruit; and any group whose production is more than 62.5 percent shall be allocated a third member. At least one producer alternate member shall be a producer from outside that portion of Riverside County which is east of a line due north and south through the post office at Whitewater and west of a line due north and south through Chiriaco Summit, and any such alternate member need not be of the same affiliation as the member.

(c) Allocation of handler member positions shall be at least one member to represent cooperative marketing organizations, henceforth referred to as "cooperative handlers", and at least one member to represent handlers who are not cooperative marketing organizations, henceforth referred to as "independent handlers." A second handler member shall be allocated to any group (cooperative or independent) which during the fiscal period preceding the fiscal period in which nominations are made handled more than 37.5 percent but not more than 62.5 percent of the total quantity of grapefruit handled by all handlers; and any group which handled more than 62.5 percent shall be allocated a third member.

(d) The committee may, with the approval of the Secretary, change the number of producer or handler positions on the committee, reapportion the membership between cooperatives and independents, and limit the number of positions that may be filled by persons affiliated with the same packinghouse or handling organization, as may be necessary to assure equitable representation.

§ 904.21 Term of office.

The term of office of the members and alternate members shall be two fiscal periods: *Provided,* That the term of office of initial members and alternates shall begin as soon as practicable subsequent to the effective date of this part and end August 31, 1981. Each member and alternate shall serve during the term of office for which that person is selected and has qualified and shall continue to serve until a successor is selected and has qualified.

§ 904.22 Nomination.

(a) *Initial producer and handler members.* Nomination for the initial members and alternate members of the committee for each position may be submitted to the Secretary by individual producers and handlers. Such nominations may be made by means of meetings of handlers and meetings of producers of the applicable groups (cooperative or independent). Any such nominations shall be filed with the Secretary not later than the effective date of this part. If such nominations are not filed as specified in this section, the Secretary may select initial members and alternate members, without regard to nomination, on the basis of the representation provided in § 904.20.

(b) *Successor producer members.* (1) The Secretary shall cause to be held, not later than July 1 of each odd-numbered year, meetings of producers for the purpose of making nominations for members and alternate members of the committee.

(2) Only producers, including duly authorized officers or employees of producers, who are present shall participate in the nomination of producer members and alternates. Each producer shall be entitled to cast only one vote for each nominee to be selected. To the extent practicable, only producers affiliated with cooperative marketing organizations may elect nominees affiliated with such organizations; and only producers not affiliated with cooperative marketing organizations may elect nominees not so affiliated. In the event some of a producer's grapefruit is handled through a cooperative marketing organization and some is handled through an organization that is not a cooperative marketing organization, such producer shall be eligible to participate only in the category (i.e., cooperative or independent) in which such producer's major volume of fruit is handled.

(c) *Successor handler members* (1) The Secretary shall cause to be held, not later than July 1 of each odd-numbered year, meetings of handlers for the purpose of making nominations for members and alternate members of the committee.

(2) Only handlers, including duly authorized officers or employees of handlers, who are present and who are eligible to serve as handler members of the committee shall participate in the nomination of handler members and alternate handler members of the committee. Each handler shall be entitled to cast only one vote for each nominee to be selected.

(3) To the extent practicable, only handlers affiliated with cooperative marketing organizations may vote for nominees affiliated with such organizations, and only handlers not affiliated with cooperative marketing organizations may vote for nominees not so affiliated.

(d) *Reapportionment.* Any required reapportionment of committee membership shall be announced at nomination meetings prior to the making of any nomination.

(e) *Public member.* Nominations for the public member and alternate member shall be made by the committee, from qualified persons residing in the production area.

(f) *Failure to nominate.* In the event nominations are not made as specified in § 904.22, the Secretary may select

members and alternate members, without regard to nominations, from any eligible persons.

§ 904.23 Selection.

The Secretary shall select members and alternates of the committee from persons nominated pursuant to § 904.22, § 904.26, or from other qualifed persons.

§ 904.24 Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 904.25 Alternate members.

An alternate member shall act in the place of the member during such member's absence. In the even of the death, removal, resignation, or disqualification of a member, the alternate shall act for that member until a successor for such member is selected and has qualified. In the event that neither the member nor that member's alternate are able to attend a committee meeting, the chairman, with the concurrence of the majority of the members present may designate any other alternate present who is not acting as a member to serve in such member's place at the meeting. To the extent practicable, any such alternate so designated shall have the same affiliation as the absent member and only producer alternates may serve for absent producer members and only handler alternates may serve for absent handler members.

§ 904.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member, or as an alternate member of the committee to qualify, or in the event of the removal, resignation, disqualification or death of any member or alternate member, a successor for such person's unexpired term shall be nominated by a majority of the remaining committee members to provide, to the extent practicable, equitable representation as provided in § 904.20, and selected as provided in § 904.23. If nomination to fill any such vacancy is not made within 30 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations.

§ 904.27 Powers.

The Committee shall have the following powers;

(a) To administer this part in accordance with its terms and provisions;

(b) To make and adopt rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 904.28 Duties.

It shall be the duty of the committee:

(a) To select a chairman from its membership, and to select such other officers and adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To keep minutes, books, and records which will clearly reflect all of its acts and transactions, which minutes, books, and records shall at all times be subject to the examination of the Secretary; and to mail a copy of the minutes to the Secretary promptly following each committee meeting and to any other interested person who has filed his name and address with the committee for such purpose;

(c) To act as intermediary between the Secretary and the producers and handlers;

(d) To furnish the Secretary with such available information as the Secretary may request;

(e) To appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees;

(f) To cause its books to be audited by a competent public accountant at least once for each fiscal period, and at such other time as it deems necessary or as the Secretary may request, and to file with the Secretary copies of all audit reports;

(g) To prepare a monthly statement of financial operations of the committee and to make such reports, together with the minutes of the meetings of the committee, available for inspection by any producer or handler at the office of the committee;

(h) To determine as near as practicable the total crop of grapefruit, and to make such determinations, including determinations by grade and size as if may deem necessary or as may be prescribed by the Secretary, in connection with the administration of this part;

(i) To investigate the growing, handling, and marketing conditions with respect to grapefruit and to assemble data in connection therewith;

(j) To prepare and mail, as soon as practicable after the close of each fiscal period, to the Secretary, and to each handler and grower who make requests therefor, an annual report covering the operation of the previous fiscal period;

(k) With the approval of the Secretary, to increase or decrease the membership of the committee;

(l) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper committee activities and objectives under this part; and

(m) To establish, with the approval of the Secretary, procedures for the nomination of and qualification for a public member and alternate.

§ 904.29 Compensation and expenses.

The members of the committee and alternates when acting as members, shall serve without compensation, but they shall be reimbursed for reasonable expenses, as approved by the committee, incurred by them in the performance of their duties under this part. Alternate members shall be reimbursed for expenses necessarily incurred by them in attending committee meetings at the request of the committee, notwithstanding that the committee member for whom they serve as alternate also attends such meeting, and for performing other committee business at the request of the committee.

§ 904.30 Procedure.

(a) Five members of the committee shall constitute a quorum, and any action of the committee shall require at least 5 votes: *Provided,* That if the number of committee members is changed purusant to § 904.20 or § 904.28, the committe may with the approval of the Secretary change the number of members required to constitute a quorum, or the number of affirmative votes required to take any action on behalf of the committee, or both.

(b) The committee shall give to the Secretary and to any other interested persons who have filed their names and addresses with the committee requesting such notice the same notice of meetings of the committee as is given to the members of the committee.

(c) At any assembled meeting each vote must be cast in person. At any meeting other than an assembled meeting, the committee may vote by telephone, telegraph, or other means, and any such vote cast by the telephone shall be confirmed promptly in writing.

Expenses and Assessments

§ 904.34 Expenses.

The committee is authorized to incur such expenses, incuding inspection expenses, as the Secretary finds are reasonable and likely to be incurred to carry out the functions of the committee during each fiscal period. The funds to cover such expenses shall be acquired

by the levying of assessments upon handlers, as provided in § 904.35.

§ 904.35 Assessments.

(a) Each handler who first handles grapefruit shall, with respect to the grapefruit so handled, pay to the committee, upon demand, such handler's pro rata share of expenses which the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning during each fiscal period.

(b) The Secretary shall fix the rate(s) of assessment to be paid by handlers and such rate(s) may be fixed by variety. At any time during or after a fiscal period, the Secretary may increase the rate(s) of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Such increased rate with respect to any particular variety shall be applicable to all grapefruit of that variety handled during that fiscal period. To provide funds for the administration of this part, the committee may accept the payment of assessments in advance, or may borrow money for such purpose.

(c) The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

(d) Any assessment not paid by a handler within a period of time prescribed by the committee may be subject to an interest or late payment charge, or both. The period of time, rate of interest, and late payment charge shall be as recommended by the committee and approved by the Secretary.

§ 904.36 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately to the handlers from whom it was collected. *Provided,* That any sum paid by a handler in excess of his or her pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such handler.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided,* That such reserve shall not exceed an amount approximating one full fiscal period's expenses, exclusive of inspection costs. Any such reserve may be maintained by variety. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, or (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the handlers from whom such funds were collected.

(b) All funds received by the committee shall be used solely for purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal of expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

Research and Market Development

§ 904.37 Production research, marketing research, and market development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve or promote the marketing, distribution, consumption or efficient production of any variety or varieties of grapefruit. The expense of such activities shall be paid from funds collected under § 904.35. Such projects may provide for any form of marketing promotion, including paid advertising. Any such project for promotion and advertising may utilize an identifying mark or term which shall be made available for use by all handlers in accordance with such terms and conditions as the committee, with the approval of the Secretary, may prescribe.

Regulation

§ 904.38 Marketing policy.

Prior to submitting recommendations under § 904.39, the committee shall submit to the Secretary a report setting forth the marketing policy it deems advisable for the ensuing fiscal period. Additional reports shall be submitted from to time it is deemed advisable by the committee to adopt a new or modified marketing policy because of changes in the demand and supply situation for grapefruit. The committee shall publicly announce the submission of each marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or handler. In determining each such marketing policy the committee shall give due consideration to the following:

(a) Market price by grade and size of each variety of grapefruit;

(b) Supply of grapefruit by grade and size of each variety of grapefruit;

(c) Supply of competing fruits;

(d) Expected demand conditions for grapefruit in different market outlets;

(e) Type of regulation expected to be recommended during the fiscal period;

(f) Trend and level of consumer income;

(g) Marketing conditions affecting grapefruit prices; and

(h) Other relevant factors.

§ 904.39 Recommendations for regulation.

Whenever the committee finds it advisable to regulate the handling of any particular grade, quality, size, or maturity, or any combination thereof, of any variety of grapefruit during any period, it shall recommend such regulation for that period. Recommendations may include different grade, quality, size, or maturity requirements, or any combination thereof, for any variety handled to any of the marketing zones established pursuant to § 904.43.

§ 904.41 Issuance of regulations.

(a) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information, that limiting the handling of any variety of grapefruit to any particular grade, quality, size, or maturity, or any combination thereof, would tend to effectuate the declared policy of the act, the Secretary shall so limit the handling of the variety for a specified period; and the limitation may prescribe different grade, quality, size, or maturity requirements, or any

combination thereof, for the handling of any such variety by the initial handler thereof directly to the marketing zones specified. The committee shall be informed immediately of any such regulation issued by the Secretary; and the committee shall promptly give adequate notice thereof to handlers.

(b) Whenever the Secretary finds from the recommendation and information submitted by the Committee, or from other available information, that to establish and maintain in effect minimum standards of quality or maturity, or both, for the handling of grapefruit during any period would tend to effectuate the declared policy of the act and be in the public interest, the Secretary shall establish in terms of grades, sizes, or both, such standard, designate such period, and so limit the handling of such grapefruit. The Secretary shall immediately notify the committee of the issuance of any such regulation; and the committee shall promptly give adequate notice thereof to handlers.

§ 904.42 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued under § 904.41 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendation and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of grapefruit in order to effectuate the declared policy of the act, the Secretary shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, the Secretary shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ 904.43 Marketing zones.

(a) The committee, with the approval of the Secretary, may prescribe different grade, quality, size, or maturity requirements, or any combination thereof, for any variety of grapefruit handled for shipment to the following marketing zones:

(1) Zone 1: The State of California.

(2) Zone 2: The State of Arizona.

(3) Zone 3: The State of Florida.

(4) Zone 4: The State of Texas.

(5) Zone 5: The States of Washington, Oregon, Montana, Idaho, Wyoming, Nevada, and Utah.

(6) Zone 6: The States not included in Zones 1, 2, 3, 4, 5, and 7.

(7) Zone 7: All export markets including the States of Alaska and Hawaii.

(b) The committee, with approval of the Secretary, may redefine and establish any other combination of marketing zones.

§ 904.44 Grapefruit not subject to regulation.

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 904.35, 904.41, and 904.42, and the regulations issued thereunder, ship grapefruit or any variety as follows: (1) to a charitable institution for consumption at such institution; (2) to a relief agency for disposition by such agency; (3) for conversion by a commercial processor into any processed or manufactured product, including canned or bottled grapefruit juice, frozen products or beverage base; or (4) by express, parcel post or common or contract carrier in units of five cartons or less.

(b) Upon the basis of recommendation and information submitted by the committee, or from other available information, the Secretary may relieve in whole or in part from any or all of the requirements under this part, the handling of grapefruit in such minimum quantities, in such types of shipments, in such types of outlets, or for such specific purposes as the committee may recommend.

(c) The committee shall, with the approval of the Secretary, prescribe rules, regulations, and safeguards necessary to assure compliance with this section. Such rules, regulations, and safeguards may include requirements that handlers shall file applications and receive approval from the committee for authorization to handle grapefruit under this section, and that such application be accompanied by certification by the intended purchaser or receiver that the grapefruit will not be used for any purpose not authorized by this section.

§ 904.45 Special handling permit.

The committee may issue special handling permits authorizing the transportation of grapefruit in bulk lots to packing facilities outside the production area for preparation for fresh market, which facilities will be handlers under the order. All such lots shall be handled in accordance with the rules and regulations prescribed by the committee with the approval of the Secretary, and shall be subject to assessments, regulations, and the inspection and certification requirements prescribed in §§ 904.35, 904.41, 904.43 and 904.46. Any special handling permit may be revoked by the committee if the holder of such permit fails to comply with the applicable rules and regulations.

Inspection and Certification

§ 904.46 Inspection and certification.

(a) During any period in which the Secretary has regulated the handling of any variety or varities of grapefruit pursuant to §§ 904.41, 904.42 or 904.43, each handler shall, prior to the handling of any lot of such variety or varieties, cause such lot to be inspected by an authorized representative of the Federal or Federal-State Inspection Service. Promptly thereafter, such handler shall submit to the committee a copy of the inspection certificate issued thereon. The provisions of this section shall not be applicable to any lot which has been so inspected and a copy of such inspection certificate has been submitted to the committee.

(b) The committee may enter into an agreement with the Federal or Federal-State Inspection Service with respect to the costs of the inspection required by paragraph (a) of this section, and may collect from handlers their respective pro rata shares of such costs.

Reports

§ 904.47 Reports.

(a) The committee may require information from each handler regarding the grade, quality, size, maturity, and variety of each carton contained in each individual shipment, and may require such information to be delivered to the committee at such time and in such manner as the committee may request and upon forms prepared by it.

(b) The committee may require each handler to furnish the following information with respect to grapefruit: the quantity of each variety handled in interstate commerce and to Canada; the quantity of each variety handled by express and parcel post; the quantity of each variety handled for distribution to persons on relief, including donations for charitable purposes; the quantity of each variety handled for consumption in fresh form within the production area; the quantity of each variety exported to countries other than Canada; the quantity of each variety sold or otherwise disposed of for canning or for manufacturing into by-products; and the quantity of each variety disposed of otherwise.

(c) For the purpose of enabling the committee to perform its functions and

duties under this part, each handler shall furnish to the committee such other information in such form and at such times and substantiated in such manner as shall be prescribed by the committee and approved by the Secretary.

(d) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided,* That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handler furnishing the information is not disclosed and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

§ 904.48 Records.

Each handler shall maintain such records of all grapefruit handled, or otherwise disposed of as will substantiate the required reports and as may be prescribed by the committee. All such records shall be maintained for not less than two years after the termination of the fiscal period in which the transactions occurred or for such lesser period as the committee may direct.

§ 904.49 Verification of reports and records.

For the purpose of assuring compliance and checking and verifying the reports filed by handlers, the Secretary and the committee, through its duly authorized agents, shall have access to any premises where applicable records are maintained, where grapefruit are received, stored, or handled, and, at any time during reasonable business hours, shall be permitted to inspect such handlers' premises and any and all records of such handlers with respect to matters within the purview of this part.

Miscellaneous Provisions

§ 904.50 Compliance.

Except as provided in this part, no person shall handle grapefruit except in conformity to the provisions of this part and the regulations issued thereunder.

§ 904.51 Right of the Secretary.

The members of the committee (including successors and alternates), any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 904.52 Termination.

(a) The Secretary shall terminate or suspend the operation of any or all of the provisions of this part upon finding that such provisions do not tend to effectuate the declared policy of the act.

(b)(1) The Secretary shall terminate the provisions of this part at the end of the then current fiscal period whenever the Secretary finds that continuance is not favored by producers, but any such termination shall be announced before June 15 of such fiscal period.

(2) To determine whether continuance is favored by producers, the required percentages set forth in the act with respect to producer approval of the issuance of a marketing agreement and order regulating the handling of citrus fruits produced in any area producing what is known as California citrus fruits (approved by three-fourths of the producers who, during a representative period, determined by the Secretary, have been engaged within the production area in the production of grapefruit for market; or by producers who, during such representative period, have produced for market at least two-thirds of the volume of grapefruit produced within the production area for market) shall be used. In the event that a referendum is utilized to aid in making this determination, such required percentages for continuance shall be held to be complied with if, of the total number of producers, or the total volume of grapefruit produced for market, as the case may be, represented in such referendum, the percentage favoring continuance is equal to or in excess of the percentage required.

(c)(1) The Secretary shall conduct a referendum no later than May 15, 1985, and no later than that date every fifth year thereafter to ascertain whether continuance of this part is favored by producers: *Provided,* That if an intervening continuance or amendment referendum is conducted and the vote in that referendum is affirmative, the next continuance referendum shall be conducted five years after the date of such latest referendum.

(2) The committee may request that the Secretary conduct a referendum during any fiscal period, provided such request is made prior to March 15.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 904.53 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination. Any action by said trustee shall require the concurrence of a majority of the trustees.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligations imposed upon the committee and upon the trustees.

§ 904.54 Effect of termination or amendments.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

§ 904.55 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 904.56 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 904.57 Personal liability.

No member or alternate of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for act of dishonesty, willful misconduct, or gross negligence.

§ 904.58 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

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[7 CFR PART 1280]

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education Order; Recommended Decision and Opportunity to File Written Exceptions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This recommended decision concerns a proposed research and nutrition education order to establish a nationally coordinated program of research and nutrition education for wheat, processed wheat, and wheat end products as authorized by the Wheat and Wheat Foods Research and Nutrition Education Act. Interested persons may file written exceptions concerning the recommendations made herein.

The program, under the proposed order, would be financed by assessments of up to five cents per hundredweight, to be paid by end product manufacturers on their purchases of processed wheat. The order limits the assessment to one cent per hundredweight during the first two years of the program. The program would be administered by a twenty-member Council, composed equally of representatives of wheat producers, processors, end product manufacturers and consumers.

The Act authorizes the Secretary to exempt specified end products from assessment under the order. Proponents of the order have proposed that end products in which wheat is a characterizing or major ingredient be subject to assessment and that end products in which wheat is not a characterizing or major ingredient be exempt from assessment under the order. Lists of end products, both those subject to and those exempt from assessment are included in this recommended decision under the discussion of the assessments provision of the proposed order.

DATE: Written exceptions to this recommended decision may be filed by October 22, 1979.

ADDRESSES: Written exceptions should be filed in duplicate with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, DC 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION, CONTACT: W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, DC 20250, Phone: 202-447-3970.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued January 22, 1979 and published January 26, 1979 (44 FR 5450).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed wheat and wheat foods research and nutrition education order.

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Wheat and Wheat Foods Research and Nutrition Education Act (7 USC 3401 *et seq.),* and in accordance with the applicable rules of practice and procedure governing proceedings to formulate such an order (7 CFR Part 1280).

In September 1978, a proposed order was submitted to the Department by the Wheat and Wheat Foods Foundation, a group representing producers, processors and end product manufacturers. A notice of hearing and the proposed order were published in the **Federal Register** on January 26, 1979. A hearing on the proposed order was held in Minneapolis, Atlanta, and Denver during February and March 1979. Opportunity was provided for the submission of written briefs. This document contains the recommended decision and order.

Recommended Decision

1. *Decison.* The Act provides that the Secretary shall determine, on the basis of hearing evidence, if the proposed order tends to effectuate the declared policy of the Act which is to establish a research and nutrition education program to make the most efficient use of American wheat and ensure an adequate diet for the people of the U.S. The criteria used in this determination included an evaluation of: (1) the need for the program, (2) the adequacy of the proposed funding level from end product manufacturers, (3) the design of potential plans and projects for research concerning wheat quality and utilization and nutrition education as authorized in the Act, (4) the likelihood that these projects will improve nutrition and per capita consumption of wheat and (5) the specific terms and provisions of the proposed order. It is concluded from evidence introduced at public hearings that there is a need to establish a wheat research and nutrition education program. The criteria used in this conclusion is summarized below.

Need for Program—From 1910 to 1978, per capita consumption of wheat flour decreased about 50 percent. There is growing concern by the industry that consumption may continue to decline because of misconceptions that wheat-based foods are both fattening and lacking in nutritional value. Research has shown that increased consumption of wheat-based foods would contribute to both a healthier and more economical diet for U.S. consumers. Representatives from nearly every segment of the wheat industry presented evidence which strongly supports the need for a Wheat and Wheat Foods research and Nutrition Education Order.

Funding—An assessment of up to 5 cents per cwt. or, up to a maximum funding of about $10 million annually on processed wheat would be remitted to the Wheat Industry Council by the end product manufacturers (primarily wholesale bakers.) The program is voluntary and those who do not wish to support it can request and receive a refund of their assessment from the council.

Plans and Projects—Basic research on nutrition, health, products, processing and marketing of wheat-based foods would be conducted. Nutrition and health research could further investigate the role of wheat-based foods in diets

designed to reduce both body weight and cholesterol levels. Product research could focus on improved and new wheat food products while processing research could continue to seek more efficient use of products from wheat. Market research could emphasize more in-depth study of consumer attitudes toward wheat-based foods and stepped up nutrition education activities could provide nutritional information to homemakers, the food service industry, and food editors of newspapers and magazines. Based on hearing testimony concerning similar type programs, it appears that the plans and projects authorized under the Order could be designed to achieve many of the objectives of the Act.

Possible Program Results—While it is expected that the Order will increase the demand for wheat-based foods relative to other foods, problems in isolating the effects of other influencing factors may make it difficult to evaluate the program's performance. However, hearing testimony indicated that a one slice per day increase in the per capita consumption of bread would not only contribute to a healthier and more economical diet for the American people but would also result in a 20 percent increase in bread production. All income groups could benefit from the program, but the poor, the elderly and teen-age consumers would be expected to derive proportionately greater benefits from increased knowledge of the economic and nutritional advantages of wheat-based foods as a source of good nutrition.

Specific Terms and Provisions—To accomplish the declared policy of the Act, numerous specific terms and provisions are needed to govern the operation of a program. The terms and conditions of the Order contained in this document are recommended as the detailed means of carrying out the declared policy of the Act.

2. *Procedure and Background.* The Wheat and Wheat Foods Research and Nutrition Education Act, passed in 1977, authorized the establishment of a wheat research and nutrition education program to make the most efficient use of American wheat and ensure an adequate diet for the people of the United States.

The Act is enabling legislation which authorizes any individual or organization to submit a proposed order to the Secretary to implement the program authorized by the Act. The Act provides that when the Secretary has reason to believe that a proposed order will implement the program authorized by the Act the Secretary shall issue a notice and hold a hearing on the proposed order. The applicable rules of practice and procedure provide for the Department to issue a recommended decision and order if it is determined, based on the hearing evidence and written briefs, that an order will tend to implement the Act. A 45-day period is being provided for public comment on this action. If the Secretary finds after a review of these comments and the entire hearing record that the order will implement the policy of the Act, a final decision will be issued, and a referendum among end product manufacturers will be held to determine if they wish to put the order into effect. If the vote is favorable, a wheat research and nutrition education order would be established. The Wheat Industry Council, authorized under the proposed order, would be responsible for preparing detailed project proposals for wheat and wheat foods research and nutrition education. The Act requires that the proposed projects be reviewed and approved by the Secretary before project expenditures may be authorized by the Council. The order would continue indefinitely unless:

1. The Act is repealed;

2. The Secretary finds that the order or any provision(s) thereof obstructs or does not effectively carry out the policy of the Act, or;

3. End product manufacturers reject the order in a referendum for termination.

Material Issues

The material issues presented in the record of hearing are as follows:

(1) The need for the Proposed Wheat and Wheat Foods Research and Nutrition Education Order to effectively carry out the declared policy and purposes of the Act.

(2) The adequacy of the proposed level of funding, from end product manufacturers, to support the proposed program.

(3) The adequacy of the design of potential research and nutrition education plans and projects to implement the proposed program.

(4) The possible effect of the proposed program on nutrition education and per capita consumption of wheat.

(5) The determination of the specific terms and provisions of the proposed order necessary to effectively carry out the declared policy and purposes of the Act, including:

(a) Definitions of terms used therein which are necessary and incidental to achieve the objectives of the Order;

(b) The establishment, maintenance, composition, powers, duties, procedures, and operation of a Council which shall be the administrative agency for this Order;

(c) The authority for establishing and financing the development and implementation of programs and projects of research and nutrition education to establish a nationally coordinated program of research and nutrition education for wheat, processed wheat and wheat end products;

(d) The procedures to levy assessments on processed wheat purchased by end product manufacturers, to make refunds of assessments to end product manufacturers who request them, and to incur necessary expenses;

(e) The provisions concerning recordkeeping requirements and reports by end product manufacturers and

(f) The need for additional terms and conditions as set forth in §§ 1280.166 through 1280.172 of the Order which are necessary to effectuate provisions of the Act.

Findings and Conclusions

Evidence presented on the record at the public hearings indicates that wheat is produced, in some quantity, in all 50 states and wheat based foods are produced and consumed in all 50 states. Therefore, it is found that wheat and wheat based foods move in interstate and foreign commerce and that which does not move in such channels of commerce directly burden, or affect interstate commerce of wheat and wheat based foods. The findings and conclusions on the material issues are based on the evidence presented at the hearing and the record thereof and are as follows:

(1) *Need for the Order.* The record herein establishes that from 1910 to 1978, per capita consumption of wheat flour decreased about 50%. Most of the decrease took place prior to the mid 1960's. Since that time, per capita consumption has stabilized around the current level of 115 pounds per person. However, because of popular misconceptions that wheat based foods are fattening and lacking in nutrition, it is possible that per capita consumption may decline further. As a result, U.S. wheat producers as well as processors and end product manufacturers face a domestic market for their products which, at best, may be expected to gorw with population.

U.S. wheat producers have seen little growth in the domestic food market for wheat. The domestic food market is currently less than 600 million bushels annually. However, the export market has increased from less than 300 million bushels in 1948 to about 1.2 billion bushels in the current marketing year.

There are indications that some of this export increase may be directly attributed to promotional efforts financed jointly by producers and the U.S. Department of Agriculture.

Cereal grain based products are an economical source of protein, energy (calories) and essential vitamins and minerals. Americans currently spend an average of 12% of their food budget on cereal grain products which provide 26% of the calories, 21.5% of the protein and significant percentages of essential vitamins and minerals in their diet. In 1910, cereal grain products were the chief source of protein (38%) in the U.S. diet. Since 1910 the consumption of cereal grain products has decreased while fat and sugar consumption has increased.

The record reveals a need to communicate factual information to consumers as well as nutrition and health professionals about the nutritional properties of wheat based foods. Many consumers perceive wheat based foods as fattening and lacking in nutritional value. They do not realize that wheat based foods are highly nutritious and that the increased consumption of wheat based foods has been strongly recommended by many nutritional authorities. Educational programs could provide sound information to consumers concerning the nutritional properties of wheat based foods. Educational material that has been developed for use with consumers has been well received. However, funding to develop and distribute this information has been lacking, therefore, the material has had limited impact.

Testimony in support of the proposed Order was received from: (1) The Wheat and Wheat Foods Foundation on behalf of its 45 producer, 53 processors, 36 end product manufacturer and 9 other members;

(2) Producers, including the National Association of Wheat Growers which represents state wheat grower associations in 16 states which produce over 80% of the wheat grown in the U.S., the U.S. Durum Growers Association, Women Involved in Farm Economics (WIFE), and 5 state wheat growers commissions;

(3) Processors, including the Millers National Federation whose members account for 87% of the flour produced in this country;

(4) End product manufacturers, including the American Bakers Association, representing wholesale bakers and representatives of cereal and pasta manufacturers;

(5) Labor through testimony by the Bakers, Confectionary and Tobacco Workers International Union of the AFL–CIO;

(6) The two principal trade publications in the wheat and wheat foods industry, "Milling and Baking News" and "Bakery Production and Marketing Magazine"; and

(7) Organizations and firms in research and/or nutrition education activities relating to wheat and other commodities including several universities, the American Institute of Baking, the National Wheat Institute, Great Plains Wheat, Western Wheat Associates, the Potato Board and several private firms.

(2) *Level of Funding:* (i) *General.* The research and nutrition education activities to be conducted under the proposed program would be funded by an assessment on processed wheat purchased by end product manufacturers. During the first two years, the proposed order calls for an assessment of one cent per hundredweight of processed wheat purchased. Both the enabling legislation and the proposed order provide for a maximum assessment of five cents per hundredweight of processed wheat purchased. It is estimated that initial collections at the one cent level would be about $2 million annually. At the maximum assessment level of five cents per hundredweight collections would be about $10 million annually.

The assessment on the processed wheat would be recorded by the end product manufacturer at the time the processed wheat is purchased and remitted to the Wheat Industry Council on a regularly scheduled basis. The program would be voluntary, in that end product manufacturers who pay an assessement and do not wish to support the program can request and receive a refund.

The implementation of the Act would directly affect all wheat end product manufacturers including retail bakers and end product manufacturers using less than 2000 hundredweight of processed wheat annually even though the latter groups would not be assessed for the program. Other groups directly impacted would include the recipients of the funds expended by the Wheat Industry Council such as university and other research entities, product promotion firms, advertisers and the media.

The impact on producers and processors of wheat and consumers of wheat based foods would be less direct than the impact on end product manufacturers and would depend on the nature and extent of programs developed by the Wheat Industry Council.

(ii) *Cost Impacts.* The cost impact on wheat end product manufacturers would vary from one cent per hundredweight of processed wheat as authorized in the proposed order to a maximum of five cents per hundredweight of processed wheat as permitted by the Act. At the one cent per hundredweight assessment level, the cost per one pound loaf of bread would be about seven one-thousandths of a cent per loaf. At the maximum assessment level of five cents per hundredweight the cost per one pound loaf of bread would be about three one-hundredths of a cent. Proponents have stated that given the competitive nature of the wholesale baking industry and the minuscle amount of the assessment per unit of production, the assessment will not be passed on to the consumer. Proponents point out that a very small increase in volume will reduce per unit costs to more than offset the cost of the assessment.

End product manufacturers have testified that the proposed order will not result in increased recordkeeping costs because existing records can be used to comply with the recordkeeping requirements of the proposed order.

The proposed order will have no cost impact on wheat producers. Processors purchase their wheat needs at competitive market prices. The export market accounts for about two-thirds of total usage of U.S. wheat and as such, the U.S. farm price of wheat is determined by the world supply and demand situation.

Processors who supply bakery mixes to end product manufacturers will be required to show the processed wheat content within plus or minus 3% on invoices to end product manufacturers in order for end product manufacturers to determine their use of processed wheat. Processors have testified that this requirement will not increase their costs.

(iii) *USDA and Other Federal Costs.* The Act provides that the Council will reimburse the Department, from assessments, for expenses incurred in conducting the referendum and for all expenses incurred relating to this program, including salaries.

(3) *Plans and Projects.* Below is a description of the type of impacts that may result from a nutrition education and promotion program based on experience in other commodity programs. Also included is a brief discussion of the types of programs which could be conducted by the Wheat Industry Council. Nutrition education and generic promotion of commodities in the United States and bread, in some European markets, is a relatively new

phenomenon. These recent experiences show marked changes in consumer attitudes with mixed results in terms of impact on consumption.

European processors and end product manufacturers faced a continuous decline in per capita consumption of flour. Sponsors of these programs worked closely with and in some cases gained active support from medical and nutrition professionals as well as government agencies in explaining the nutritional benefits from increased consumption of wheat based foods. Since the adoption of the programs, the per capita consumption of flour has stabilized and in some cases increased.

In the U.S., per capita potato consumption in the early 1950's was about 100 pounds, about half of what it was in 1910. In the 1960's, consumption increased to about 110 pounds, probably as a result of the introduction of processed potato products. However, consumption of fresh potatoes continued to decrease. One of the reasons given for the decline in consumption was the rather prevalent opinion that potatoes are fattening. Actually, potatoes are a nutritious food, rich in the vitamins and minerals necessary in the daily diet.

In 1971, the Potato Research and Promotion Act was passed in an effort to increase the per capita consumption of potatoes. The National Potato Promotion Board set out to dispel the negative image of potatoes as fattening and to educate the consumer to their nutritional value. The program has been one of generic promotion with strong emphasis on nutrition education. As a result of the efforts of the Potato Board, consumer attitudes toward potatoes are now more positive. Per capita consumption of fresh potatoes has shown some increase in the last 3 years.

Per capita consumption of eggs declined over 25% between 1950 and 1974. In 1974, the Egg Research and Consumer Information Act was passed in an effort to increase per capita consumption of eggs. The American Egg Board has made several research grants to investigate nutritional aspects of the cholesterol controversy. In addition, the Board, through the use of a generic education and promotion program, has improved consumer attitudes towards eggs. In 1978, the per capita consumption of eggs showed the first increase since 1971.

The impact of any ongoing research and nutrition education program is difficult to measure because of the problems in isolating the effects of other influencing factors. Estimating the possible impacts of a potential program is even more troublesome.

The results of the various programs under the Wheat and Wheat Foods Research and Nutrition Education order will be a function of the priority given to the research and education programs by the Wheat Industry Council. It is anticipated that in addition to domestic research and nutrition education activities, the Council will also be involved in export development activities.

Basic research could include nutrition and health research as well as product, processing and market research. Nutrition and health research could further investigate the role of wheat based foods in weight loss diets and diets designed to reduce blood cholesterol levels. Product research could develop new or improved wheat based products. Research into processing methods could result in more efficient processing methods as well as more efficient utilization of wheat in the production of flour and other flour mill products. Market research could involve an in-depth study of consumer attitudes toward wheat based foods. Nutrition education activities could provide nutrition, health and education material for nutrition and health professionals as well as food editors, homemakers, the food service industry and school children. Foreign market development activities could be carried out to increase export markets for U.S. wheat and flour. Obviously, for all of these possible opportunities, there is always a risk of failure. The rate of return for various potential projects could undoubtedly vary significantly. Thus, the Wheat Industry Council should attempt to choose those projects with a high probability of successfully achieving a high rate of return.

(4) *Possible Results:* (i) *General.* Per capita consumption of bread in the U.S. averages about five slices per person per day. Research based on the McGovern committee report "Dietary Goals for the United States" has suggested that any increase in consumption up to 67 percent over the present level, of wheat based foods would contribute to a healthier and more economical diet for the American people. The record emphasizes the role of wheat based foods in a balanced diet. However, it points out that wheat based foods are only part of a balanced diet. Hearing testimony indicated that a one slice per day increase in the per capita consumption of bread would not only contribute to a healthier and more economical diet for the American people but would also result in a 20% increase in bread production.

Bakers testified to the existence of excess capacity in the wholesale baking industry. Given the existence of excess baking capacity, an increase in volume would result in reduced per unit costs of production. As a result of the competitive nature of the wholesale baking industry, any significant cost reductions resulting from increases in volume would either be passed on to the consumer in terms of lower prices or used to offset cost increases that would otherwise be passed on to consumers.

(ii) *Competitive Impact.* It is expected that the order will increase the demand for wheat based foods relative to other types of food. The impact of the proposed program on different types of end product manufacturers will depend on the specific research and education projects undertaken by the Council. However, it is the intent of the proposed order that the Council represent and act in the best interests of the entire wheat industry, including all types of end product manufacturers.

(iii) *Distribution of Effects by Income Classes.* The proposed order provides for a program of research and nutrition education. Previous research efforts have shown that wheat based foods are nutritious and an economical source of protein, energy (calories) and essential vitamins and minerals. All income groups could benefit from the program by receiving sound nutritional information and learning how to use this information to develop more nutritious meals at lower cost. However, the poor, the elderly and teenage consumers would be expected to derive proportionately greater benefits from increased knowledge of the economic advantages of wheat based foods as a source of good nutrition. Research has indicated that these groups are the most at-risk categories for poor nutrition and related health problems.

(5) *Terms and provisions of the Order.* (a) *Definitions.* "Processed wheat" is defined to mean the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means. The definition is necessary to specify one of the products to which research and nutrition education plans or projects may apply, and to determine applicability of the assessment.

"End product" is defined to mean any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional, incidental preparation which may be necessary by the ultimate

consumer. For example, bread, cake, cookies, crackers, breakfast cereals, and pasta products would all be end products.

This definition is necessary to determine products to which plans or projects may apply, as well as to determine applicability of the assessment and certain exclusions therefrom.

The terms "processed wheat" and "end product" as used in the Act are mutually exclusive. An "end product" is defined as a product which contains "processed wheat" as an ingredient and which is intended as produced to be used for consumption as human food, notwithstanding any incidental preparation which may be necessary by the ultimate consumer. "Incidental preparation" means such actions as thawing frozen bakery products or baking brown-and-serve products, so that frozen cakes, breads, or bread doughs, brown-and-serve rolls, etc. would be considered "end products" and, therefore, would be subject to the assessment.

On the other hand, "processed wheat" means the wheat-derived content of substances such as flour, self-rising flour, and cake mixes, which are not normally consumed as human food in that form, but rather used as ingredients of "end products."

Products such as Graham crackers, granola, or other substances which may be consumed in their present form or used as an ingredient of another end product are within the definition of end product. Therefore, the assessment on the processed wheat purchased for use in the manfacturer of such substances would be paid by the end product manufacturer who first manufactures them into a substance which can be consumed as human food. No further assessment, however, would be due from subsequent end product manufacturers producing such end products for use as ingredients of other end products.

It should also be noted that the assessment would apply to the end products of an end product manufacturer regardless of whether the end product is consumed in the U.S. or exported.

"Wheat producer" is defined to mean any person who grows wheat within the United States for market. The definition is necessary to define one class of persons eligible for representation on the Wheat Industry Council.

"Processor" is defined to mean-any person who commercially produces processed wheat within the United States. This definition specifies a class eligible for Council representation and subject to reporting and record-keeping obligations under § 1280.160 and § 1280.161 of the order but not subject to assessments.

"End product manufacturer" is defined to mean any person who commerically produces an end product within the U.S., but does not include such persons to the extent they produce end products on the premises where such products are to be consumed by an ultimate consumer, including, but not limited to hotels, restaurants, and institutions. Nor does the term include persons who produce end products for their own personal, family or household use.

The definition establishes a class eligible for Council representation, subject to certain reporting and recordkeeping obligations, and liable for the assessment under the order. Only those who will be liable for the assessment will be eligible to vote in the referendum.

With respect to voting in the referendum, each end product manufacturer will be allowed one vote whether such end product manufacturer is an individual, a partnership or a corporation. The principal of one "person" (as defined in the Act) one vote will apply regardless of the number of subsidiaries, affiliates or divisions a corporation may have or the number or type of end products it may produce. The interests of large end product manufacturers will be given appropriate consideration because volume of processed wheat purchased will be taken into account in the referendum as required by section 1708 of the Act.

It is intended under the Act that entities such as hotels, restaurants, institutions, etc., which produce end products on the premises where they are to be consumed by an ultimate consumer should not be subject to any obligations under the Act of the proposed order, and this definition so provides. Furthermore, there may be some hotels, restaurants or institutions which prepare end products at central commissaries and then distribute them to several locations (e.g., a restaurant with three or four locations in the same city which bakes end products at one central location). Such end products would not technically be "consumed on the premises" where baked. However, it is intended that the persons who produce these end products be excluded from those covered by the end product manufacturer definition since they are still clearly within the class at which the statutory exemption is aimed.

"Research" is defined to mean any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

The definition is broad enough to include any type of research aimed at achieving the general objectives of the Act but narrow enough to assure projects will not go beyond the scope of those objectives.

"Nutrition education" is defined to mean any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat and end products.

Nutrition education activities must be based on the results of research (whether conducted by the Wheat Industry Council *or* others). They would not include promotion efforts based solely on the desirability of wheat, processed wheat or end products. Such activities, that encourage consumption for its own sake without imparting any knowledge of nutritional facts or economic value, are clearly not intended under the Act and its legislative history, and they would not be included under this definition. One of the roles of the Council could be to serve as a clearinghouse for all wheat research information and to insure that valuable research results, from whatever source, are given the widest possible distribution to achieve the maximum economic and social benefits.

"Wheat Industry Council" is defined as the administrative agency or body charged by the Act with the duty to administer the order. The administrative agency would be composed of wheat producers, processors, end product manufacturers, and consumers selected by the Secretary from nominations submitted by eligible producer, processor, end product manufacturer and consumer organizations.

"Person" is defined to mean any individual, partnership, corporation, association or other entity. This conforms to the definition in the Act and, in combination with the definitions of producer, processor and end product manufacturer, covers the range of possible different entities that may be subject to the order.

"Fiscal period" is defined to mean the calendar year or such other consecutive twelve-month period as the Council, with the approval of the Secretary, may determine. The Wheat Industry Council is required to submit to the Secretary, for approval, budgets on a fiscal period basis containing anticipated expenses and disbursements in the various areas expenditures are authorized.

"Eligible organization" is defined to mean any organization or assoication which has been certified by the Secretary pursuant to § 1280.165. There

are many organizations and associations representing producers, processors, end product manufacturers and consumers throughout the U.S., both nationwide and in various specific geographical areas. The Act requires eligible organizations to carry the major responsibility for nominating members to the Council. The final determination of eligibility rests with the Secretary.

"Part" means 7 CFR Part 1280, containing rules, regulations, orders, supplemental orders and similar matters concerning the Act; "subpart" means any portion or segment of such part. These are necessary technical definitions.

"Retail baker" is defined to mean an end product manufacturer who sells end products directly to the ultimate consumer: *Provided,* That such term shall not include any end product manufacturer who derives less than ten per centum of gross end product sales revenues from sales to ultimate consumers or who derives ten per centum or more of gross food or food product sales revenues from the sale of such products manufactured or produced by others.

This definition is necessary to describe a class of persons who are exempt from payment of the assessment, from voting in the referendum on the order, and from serving on the Council.

Retail bakers are specifically exempted from all provisions of the Act as a matter of statutory right. The effect of this exemption is to free retail bakers from all obligations under the Act, including payment of the assessment, voting in the referendum, or serving on the Council.

End product manufacturers which derive less than ten percent of gross end product sales revenues from sales to ultimate consumers are excluded from the definition so that wholesale bakers who do some minor retail sales will remain subject to the Act. End product manufacturers which derive ten percent or more of gross food sales revenues from sales of products manufactured or produced by others are excluded from the definition of retail bakers with the effect that only substantial operations, such as large chain grocery store bakery operations will remain subject to the Act.

To receive the benefit of the exemption it would only be necessary for any end product manufacturer to demonstrate to the Secretary, if so requested: (1) that it does sell end products directly to ultimate consumers; (2) that it derives ninety percent or more of its gross end products sales revenues from such sales to ultimate consumers; and (3) that it does not derive ten percent or more of its gross food or food products sales revenues from the sale of such products manufactured or produced by others. It is not expected that the Secretary would use his authority to require retail bakers to prove eligibility for the exemption except in rare instances.

The 10% limitation concerning sales to ultimate consumers is not expected to exclude any wholesale bakers from the assessment. Most wholesale bakers operate retail stores to sell bread and other bakery foods which have passed the typical supermarket shelf-life period. The baker's goal is to recover costs of production through his "day-old bread" or "thrift store" operations. Bakery driver-salemen retrieve the products from supermarkets after one to three days, and the bakers offer them at significantly reduced prices. But these retail activities typically account for only 2 to 3 percent of an average wholesale baker's total sales and would not, in any case approach 10%.

Wholesale bakers participating in the program under the proposed order who operate such retail stores would not be entitled to an exemption from assessments on their retail volume.

The second 10% limitation excludes from the retail baker definition, and hence from the exemption, persons who derive 10% or more of their gross food sales revenues from the sale of foods produced by others. This statutory provision is aimed at chain store bakeries. Although the class has diminished significantly in recent years, bakeries owned and operated by chain stores and supermarkets still account for about 10% of sales nationally within the wholesale baking segment.

The preponderance of income for these firms is derived from retail grocery sales—sales of products produced by others. However, their captive baking operations can give them exclusive brands and additional profits. And in those supermarkets where baking is done in the store, grocers benefit from increased customer interest and satisfaction in seeing products come fresh—and aromatic—from the oven.

Many of these chain store bakery operations are quite substantial in size. Since none of them have gross food sales revenues from their own products even approaching 90 percent, they will be excluded from the retail baker exemption and will be subject to assessment as end product manufacturers. Chain store bakeries of small size, which might find the recordkeeping or reporting provisions of the order inconvenient, will, however, be exempt from the assessment under the 2,000 hundredweight exemption, which will be discussed at a later point in this recommended decision.

The definitions of "intra-company transfers," "related companies or divisions of the same company," and "control" are all interrelated. "Intra-company transfers" means sales or transfers of processed wheat for use in the manufacture of end products to end product manufacturers from related companies or divisions of the same company. "Related companies or divisions" means subsidiaries, affiliates or divisions of an end product manufacturer which are controlled by, controlling, or under common control with, such end product manufacturer. "Control," including the terms "controlling," "controlled by," and "under common control with," means the possession directly or indirectly of the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract, or otherwise.

These three definitions are necessary to determine when the assessment vests with respect to certain end product manufacturers. They are required due to the structure of certain segments of the wheat industry where some diversified corporations include both processing and end product manufacture divisions or affiliates. Under this definition, the assessment will vest upon purchase of processed wheat for use in the manufacture of end products, and a "purchase" would include an "intra-company transfer." Thus, the Council will be able to determine exactly when the assessment will vest with respect to each such transfer.

The percentage of processed wheat subject to intra-company transfers is not large. Only about six wheat processor firms are also involved in end product manufacturing. Among all of those firms, the two operations are maintained separate from each other and intra-company transfers are treated substantially the same by both entities as a normal purchase and sale of processed wheat. Therefore, it is not anticipated that either entity would have any problem with the reporting or recordkeeping provisions of the order, or in calculating and remitting assessments.

"Act" is defined to provide the correct legal citation for the statute pursuant to which the Order may be put into effect and operated. The inclusion of this definition makes it unnecessary to refer to such law and statutory citation each time reference is made to the Act in the provisions of the Order. "Act" also is defined to include any amendments that may be made to the Wheat and Wheat

Foods Research and Nutrition Education Act (7 U.S.C. 3401 et seq.).

(b) *Wheat Industry Council.* A Wheat Industry Council is established to act as the administrative body for this Order as specified in Section 1706 of the Act. It is composed of wheat producers, processors, end product manufacturers and consumers appointed by the Secretary from nominations submitted by eligible organizations. If the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers or consumers are not represented by any eligible organization, then nominations shall be submitted in a manner authorized by the Secretary. Each member has an alternate to serve in the member's stead as necessary.

Membership. The Act provides for the Council to consist of "not more than" twenty members, to be divided equally among producers, processors, end product manufacturers and consumers. In view of the broad representation on the Council, and the diverse interests to be represented, the proposed order provides for the maximum allowable Council size, i.e., twenty members, five from each segment. A Council of less than twenty members would not be able to provide adequate representation to consumers and all segments of the wheat industry.

Term of office. The term of office for Council members and their alternates is 2 years as provided in the Act. Such a period of time is necessary to permit a member to become familiar with the programs and operations of the Council and to make an effective contribution. Initial appointments shall be, proportionately, for 2 and 3 year terms, giving staggered terms for Council members so that all terms would not expire at the same time. This will help to insure continuity of program efforts and program direction.

The Order provides for continuation of a member's service until his or her successor qualifies so as to avoid gaps in Council membership and assure equal representation at all times of all four segments on the Council.

No member or alternate shall serve more than three consecutive terms in the same capacity, but service of three consecutive terms in one capacity will not disqualify any person from appointment in another capacity. Thus, persons who have served as a member can then be appointed as an alternate, and vice versa.

Certification of organizations. Any organization or association may ask the Secretary to certify its eligibility to participate in nominating members and alternates to the Council and to represent producers, processors, end product manufacturers or consumers. Eligibility will be based, in addition to other available information, upon a factual report submitted by the organization or association which shall contain information deemed relevant and specified by the Secretary for the making of such determination. The report must include information which will allow the Secretary to determine that nominating organizations or associations do represent their respective segments of the industry or consumers. The information includes:

(1) Geographic territory covered by the organization's active membership.

(2) Nature and size of the organization's active membership, including (for non-consumer organizations) the total number of active wheat producers, processors or end product manufacturers represented.

This is particularly significant with respect to producers. General farm organizations wishing to make nominations would need to show the number of wheat producers they represent. Testimony suggested that to the extent that the same producers are also members of organizations specifically representing wheat interests, they would be better represented on the Council by such wheat organizations.

(3) The extent to which producer, processor or end product manufacturer membership, respectively, is represented in setting the organization's policies.

(4) Evidence of stability and permanence of the organization;

Testimony suggested that the Council will be around for a long time and organizations wishing to be involved in the nomination of Council members should likewise be required to demonstrate their stability and permanence.

(5) Sources from which the organization's operating funds are derived;

To insure fair representation on the Council, the operating funds of any organization wishing to submit nominations should, to the extent possible come from those it represents.

(6) Functions of the organization;

The functions of any nominating organization should be consistent with the purposes and goals of the Act.

(7) The organization's ability and willingness to further the aims and objectives of the Act;

Testimony suggested that an organization which is not committed to these aims and objectives would certainly not be likely to produce a constructive member of the Council.

The order states that the primary consideration in determining eligibility of a non-consumer organization shall be whether its membership consists primarily of producers, processors or end product manufacturers who produce a substantial volume of wheat, processed wheat or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing or end manufacturing of wheat or wheat products and the nutritional attributes thereof. This requirement should insure that Council members fairly represent the interests of their particular segment of the industry.

The order sets out the criteria for consumer organizations. They include the requirement that the primary consideration for a consumer organization shall be whether: (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education; (2) such organization has a broadly representative constitutency of consumers, with active membership participation on a regular basis; and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of the Act. Testimony suggested that a member nominated by an organization which opposes the objectives of the act would be detrimental to the efficient functioning of the Council and the achievement of the Act's objectives.

Any organization or association which the Secretary finds to be eligible under this section will be certified. The Secretary's determination shall be final. Because the functions, goals and membership of any organization may change over time, organizations are required to request recertification every five years after their originial certification. This will insure that the Council members they nominate will continue to be representative of their particular segment of the industry, or of consumers. Additionally, if the Secretary believes that any organization is no longer representative he may require recertification at any time.

Nominations. Orderly procedures are to be established for producer, processor, end product manfacturer and consumer organizations and to submit nominations for Council members and alternates to the Secretary. If the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers or consumers are not represented by eligible organizations then the Secretary will establish a procedure for obtaining

nominations to represent such wheat producers, processors, end product manufacturers or consumers. It is essential that the nominations and appointments be completed in a timely fashion, but adequate time must be provided for each group to consider and select their nominees and for the Secretary to make the appointments. A final Order establishing a Wheat Industry Council becomes effective only upon approval by end product manufacturers voting in a referendum. Nominations shall be submitted to the Secretary within 60 days after it is determined that the results of the referendum favor the Order, but the Secretary may prescribe a longer period if necessary.

Eligible organizations may caucus to jointly nominate qualified individuals for each member and each alternate member to be appointed to the Council. If they do not caucus or if they fail to agree on nominees, each eligible organization is authorized to submit nominations for each position to be filled. The Secretary also is required to determine whether a substantial number of producers, processors, end product manufacturers or consumers are not members of or their interests are not represented by any eligible organization and, if so, provide a manner for such individuals to submit nominations. A minimum of 60 days is necessary, after approval of the Order, to permit the Department to certify eligible organizations and for certified organizations to caucus, make their selections, and submit their nominations to the Secretary. The Secretary may prescribe a longer period if necessary.

After the initial Council has been established, nominations for subsequent appointments of Council members and alternates should be submitted sufficiently in advance to permit the Secretary to select the members, to inform them of their selection, and to obtain acceptance of such appointments before the beginning of the term of office for which they are being appointed. It is necessary to make these subsequent appointments in a timely fashion in order that operations of the Council can continue without interruption when normal changes in membership of the Council occur. Therefore, submission of nominations to the Secretary for subsequent Council members and alternates shall be at least 60 days prior to the expiration of the terms of members and alternates previously appointed to the Council. Other aspects of the nomination procedures for these appointments to the Board are the same as those for nominating members and alternates to the initial Council.

In the selection of producer representatives for the Council, consideration shall be given to the selection of members that will be representative of the classes and volume of wheat produced as well as the geographic distribution of that production. Council members will be appointed to represent each of the following areas:

1. The Eastern States—all states east of a north-south line from the western boundary of Minnesota to the western boundary of Louisiana. This will encompass all of the Soft red winter production area and the eastern White wheat production area. It is a natural unit from the standpoint of classes of wheat, methods of farming operations, market channels, and end use interests.

2. North Dakota and South Dakota—This area embraces the unique Durum Wheat class and most of the Hard red spring production. Durum is unique from the other classes because of its end uses as pasta products. The Hard red spring production area is a heavily concentrated wheat production area. In this area farming practices and marketing bases differ markedly from the Hard red winter wheat areas.

3. Kansas and Nebraska—This is a heavily concentrated portion of Hard red winter wheat production. Kansas alone is the leading state in the nation in wheat production. Record testimony indicates that there should be two producer representatives from Hard red winter states (one from area number 3 and one from area number 4) because the volume of production of Hard red winter is more than double that for any other class and this class of wheat is very heavily used in domestic markets.

4. Oklahoma, Texas, Montana, Wyoming, Utah, Colorado and New Mexico—This area comprises the remainder of the Hard red winter production. Its production and marketing problems are generally distinct from those of producers to the east or west. It embraces the very heart of conditions representative of the Great Plains area and much of the Rocky Mountains. Wheat production is not as concentrated as in area number 3.

5. The Western States—Idaho, Washington, Oregon, California, Utah and Arizona—This area encompasses the western White wheat production areas and the production and marketing patterns and problems of the western states. Any export marketings from this area follow different channels from those of the midwest and east. The varieties of wheat produced, farming practices, and research needs are generally different from the other areas.

The above areas represent the following percentages of 1978 wheat production: area number one—18 percent; area number two—19 percent; area number three—22 percent; area number four—23 percent and area number five—18 percent.

The criteria to be used in selecting processor members for the Council include class and amount of wheat processed and geographic distribution. Different classes of wheat are used in the production of different types of end products.

The record suggests that processor representation on the Council should be determined primarily on the basis of the class of wheat processed so that the Council should include at least one individual representing processors who are major suppliers of wheat for: (1) baked goods; (2) biscuits and crackers; (3) cereals; and (4) pasta products.

To insure that appropriate consideration is also given to volume and geographical considerations processor members should be selected so that at least one represents the eastern area (east of the Mississippi River), at least one represents the midwestern area (from the Mississippi to the Rockies) and at least one represents the far west (west of the Rockies). Further, at least one of the five should represent a processor who is in the bottom third of the industry in terms of volume of processed wheat produced, at least one represent the middle third and at least one represent the top third. This will assure that the interests of processors of all sizes will be adequately represented.

Although there is some overlap in these categories, i.e., one processor member might at the same time represent suppliers of processed wheat to bakers, processors in the midwestern area, and processors in the top third of the industry in terms of volume. By taking all these factors into consideration, it should be possible to provide full and fair representation of the interests of all processors.

With respect to end product manufacturers, the criteria for selecting Council members should include the generic type of end product produced by each segment of the end product industry and the percentage each such segment uses of the total processed wheat used by all segments of the industry.

Segments of the industry by generic type include: (1) baked goods, (2) biscuits and crackers, (3) cereals, and (4) pasta products. Each of these four industry segments is well represented

by a nationwide trade association. Record testimony has indicated that if each of these associations do propose nominees, then each of the four industry segments they represent should have at least one Council member. If any of these associations fails to submit nominations, then that seat may be allocated to a representative of other end product manufacturers. Since the industry segment which produces baked goods uses the largest percentage of processed wheat (45 percent), the baked goods segment should be represented by at least two members on the Council, with each of the other three industry segments having one Council member if they choose to submit nominations.

Criteria to be considered in the selection of consumer representatives are discussed under the prior section, entitled "Certification of organizations."

Appointments. The Order provides that the Secretary will select and appoint Council members and an alternate for each from nominations submitted. Written notice of their acceptance of the appointment will be submitted to the Secretary promptly by member and alternate designates.

Vacancies. The nomination and appointment procedures for individuals to fill unexpired terms when vacancies occur are the same as those specified for the normal appointment and reappointment of members and alternates. It is important that vacancies be filled promptly in order to maintain full membership and representation on the Council and a minimum of disruption. Accordingly, nominations to fill vacancies are to be submitted to the Secretary within 60 days of the time the vacancy occurs. Such a period provides a reasonable amount of time for selection of nominees. However, should a vacancy occur within 6 months of the expiration of the term of a Council member or alternate, the Secretary need not fill the vacancy.

Alternate members. Each Council member has an alternate designated to serve in the member's place as necessary. On occasions, a Council member may find it necessary to be absent from Council meetings. An alternate member should be available so that the business affairs of the Council will not be impaired. The alternate member will serve at Council meetings in the absence of the member. Also, in the event of a vacancy on the Council for any reason, the alternate will act until a successor is appointed. Alternate member do not automatically serve in place of Council members on committees and other special assignments unless specifically selected to do so by the Council. The Council is not precluded from assigning other duties to alternates in addition to their responsibility to serve in the absence of Council members. The same criteria and procedures are used for nominating and appointing alternates as those for Council members. Alternates also are limited to 6 consecutive years of service as an alternate. However, nothing precludes an alternate from replacing or succeeding a member and that alternate is permitted to serve up to three terms as a Council member, without regard to the length of time served as an alternate.

Procedure. The Council should adopt bylaws governing its organization and operation. However, the method of voting in decisions of the Council and quorum requirements are specified in the Order. The presence of a majority of the members and alternates acting for members constitutes a quorum. On any vote taken by the Council, a majority of those present and voting must concur before any action can be taken.

It is necessary that the Council adopt procedures which will assure that it operates properly and efficiently and it should schedule regular meetings. However, there may be instances when it is necessary to transact routine, noncontroversial business or take rapid action at times when it would be expensive and unnecessary to call an assembled meeting. Therefore, the Council is authorized to vote by telephone, telegraph, or other means of communication in such instances. However, any such vote by telephone shall be confirmed promptly in writing. The Council should have authority to determine when it will be necessary to transact business without calling an assembled meeting.

Compensation. Council members and alternates serve without compensation, but it is appropriate that members and alternates be reimbursed for necessary and reasonable expenses incurred when performing authorized Council business. The Council, with the approval of the Secretary, shall set standard procedures governing reimbursement, including the forms to be used, receipts or other documentation required, and the limits of reasonable expenses.

Powers. The Council must have the powers specified in Section 1706 of the Act in order to effectively provide administrative direction of the program. The Council has the power to administer all terms and provisions of the Order and carry out the plans and programs authorized by the Act. The Council is empowered to develop rules and regulations necessary for implementing and operating the program and submit them to the Secretary for approval and issuance. Such rules and regulations are necessary to set the procedures under which the Council exercises its responsibilities. They govern the method of collecting assessments, the refund procedures, the actions to be taken to implement specific programs, the records that must be kept by end product manufacturers and processors, and the related provisions necessary to meet the requirements of the Order.

Violations of the rules and regulations issued pursuant to the Order may occur and the Council has the power to investigate alleged violations. Procedures established for handling such violations should assure fair and equitable treatment in all instances. The Council should take all reasonable steps to settle violations and in the event that settlement cannot be reached, report violations, with documentation, to the Secretary for appropriate action.

Problems may arise or conditions may change within the industry that would necessitate amendments to the Order. The Council should maintain regular surveillance of the need for amendments and should exercise the power to recommend amendments of the Order to the Secretary when it deems that such action is necessary.

Duties. The duties of the Council as set forth in the Order are necessary for the discharge of its responsibilities. The stated duties provide authority and guidance concerning many details common to the operation of an administrative entity such as the Council.

They include the duty to meet and organize, elect officers, and establish committees and subcommittees of Council members as necessary to handle the affairs of the Council. Bylaws should be adopted governing the conduct of business by the Council. The Council also has authority to appoint advisory committees, which would include persons who are not members of the Council, in order to gain added expert advice and counsel on problems, procedures, and programs. Such committees can act in an advisory position only; final decisions and actions are reserved to the Council, and only the Council may take action authorizing the expenditure of funds. The Council has the authority to reimburse advisory committee members for travel and other expenses arising from their assignments.

The Order provides that the Council may appoint an executive committee of not less than four nor more than eight members to administer the terms of the order under the direction of the Council and within policies determined by the Council. An executive committee is not required, but may be appointed if the

Council believes it to be necessary or appropriate. The option to appoint an executive committee gives the Council needed flexibility in its operating procedures. However, because of the diversity of membership on the Council, record testimony indicates that any executive committee appointed have at least one member from each of the four groups represented on the Council.

The Act provides that the Wheat Industry Council shall have the authority to employ staff members, specifiying their duties and compensation, and to administer the provisions of the Order under the direction of the Council and within policies established by the Council. The Council should establish and maintain an effective managerial team composed of Council members and the administrative staff of the Council.

A major duty of the Council is the development of plans and programs to implement the Order. The Council has authority to initiate contracts or agreements with other organizations to conduct program activities. Contractors are required to provide plans for each project or program, outline procedures to be followed, and submit a detailed estimate of the costs. Further, contractors are required to keep adequate records and submit regular reports of their activities on a project showing progress made, disbursement of funds, and any other relevant information required by the Council or the Secretary. Contracts and agreements of the Council may become effective only upon approval of the Secretary. In addition to contracting with others, the Council has authority to conduct program activities on its own if such an approach can be shown to be more effective or efficient in furthering the purposes of the Act and Order.

The Council shall prepare a budget of its anticipated income and expenses each fiscal period and submit it to the Secretary for approval. The Secretary should specify the date for submission of the budget for approval, allowing adequate time for review prior to the beginning of the fiscal period. In addition to income and expenses, the budget statement should show program plans, the distribution of anticipated expenses for each major program category, the estimated cost for administration, and detailed justification of the plans.

Each budget should also include a brief general description of the proposed research and nutrition education programs. This general description will be included with the summary of the budget, as approved by the Secretary, which must be published in the **Federal Register.**

Other duties of the Council outlined in the Order are those necessary to assure that it operates in a businesslike fashion. They involve requirements for maintaining records and submitting reports of activities as required by the Secretary, making annual reports of activities to producers, processors, end product manufacturers and the public, accounting for funds received and expended each fiscal period, and initiating an annual audit of its financial status by an outside party. Further, the Council is required to give the Secretary the same notice of meetings as is given Council members and to provide any other information pertaining to the Order which the Secretary requests.

(c) *Programs and Projects.* The Council has the authority to determine the type of research, market development, education, and producer, processor, end product manufacturer and consumer information projects to be undertaken, and it is charged with the responsibility of initiating and recommending to the Secretary the establishment of such projects as are authorized by the Act. The projects and programs should be designed to improve and enhance the quality and make the most efficient use of American wheat, processed wheat and wheat end products. The authority is broad and flexible to enable the Council to use the most efficient and effective methods of carrying out the purposes of the Act. Emphasis should be placed on developing a coordinated national program, with activities designed to complement the efforts of groups, organizations, or agencies which are currently engaged in research and promotion activities.

The Council has the authority to recommend programs designed to expand sales in foreign markets for wheat, processed wheat and wheat end products. This area of activity should include steps to increase sales to present overseas customers as well as to develop new outlets and tailor products to their needs. Cooperative efforts with existing programs of this nature conducted by Federal and state governments and private interests may prove to be an effective approach.

Programs or projects conducted by the Council shall be periodically reviewed to determine if each such plan or project contributes to an effective and coordinated program of research, information, and education. Upon such review the Board shall terminate any program or project which it determines does not further the purpose of the Act.

The provision of the Order and Act that no programs or projects shall make any reference to private brand names of wheat based products is necessary to avoid discrimination. The Council represents all interests in the industry and therefore must be fair to all segments and elements of the wheat and wheat foods industry. Prohibition of the use of false or unwarranted claims in behalf of wheat or wheat based products or false or unwarranted statements with respect to the attributes or uses of competing products is also necessary for proper administration of the Order.

An economically viable wheat and wheat based foods industry is clearly in the public interest. Maintenance and expansion of existing markets and the development of new markets, both at home and abroad, are essential if the wheat and wheat based foods industry is to be healthy enough to supply the needs of consumers. Therefore, the Order provides the necessary authorizations for research and information designed to accomplish this objective. It enables the Council to undertake production research, marketing research, product or market research, and other research designed to improve efficiency throughout the production and marketing chain from the earliest stages of production up to the time the product reaches the consumer. In addition, information derived from research and other factual information would be made available to producers, processors, end product manufacturers and consumers.

The Council may either perform research or information work within its own organization, or it may contract for such research, market development, education, production information, and consumer information projects and programs with public and private research and development agencies which are capable of performing the work needed. While the projects and programs must be submitted to the Secretary for approval, it is recognized that study and planning may be involved in the development of such activities. Therefore, reasonable expenses which may be incurred by the Council in connection with such development should be authorized as part of the annual plan or budget even though prior to the time such projects are submitted.

(d) *Assessments, Refunds, Expenses. Assessments.* The Act provides that each end product manufacturer, excluding retailers and those using less than 2000 hundredweight of processed wheat per year, shall pay to the Council,

pursuant to regulations issued by the Council, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat with respect to which no assessment has been paid or scheduled for payment, for use in the manufacture of end products. Additionally, the Act authorizes the Secretary to exempt specified categories of end products from assessment under the order. It is recommended that end products in which wheat is a characterizing or major ingredient be subject to assessment and that end products in which wheat is not a characterizing or major ingredient be exempt from assessment under the order.

Table A, below, identifies end products in the Standard Industrial Classification code in which wheat is a characterizing or major ingredient. This list includes end products which would be subject to assessment under the order. The Council, with approval of the Secretary, may revise the list as needed. Table B, below, identifies many, but not necessarily all, of the end products in the Standard Industrial Classification code in which processed wheat is a minor ingredient but is not a characterizing or major ingredient. End products listed in Table B, similar end products identified in comments on this recommended decision and any other end products which contain processed wheat as a minor ingredient but not as a characteristic or major ingredient would be exempt from assessment under the order and would not be considered "end products" for the purpose of weighted referendum voting.

Table A. A list of wheat end products included within the "end product" definition of § 1280.103, of the proposed Wheat and Wheat Foods Research and Nutrition Education Order, which should be subject to the assessment established under § 1280.151.

SIC No.

2032 Macaroni, canned, Ravioli, canned, Spaghetti, canned
2038 Baked goods, frozen, Pies, frozen (except meat), Pizza, frozen Spaghetti and meat balls, frozen, Waffles, frozen
2041 Dough, biscuit: canned, Doughs, refrigerated
2043 Breakfast foods, cereal (wheat based), Wheat flakes
2045 Dough, biscuit: canned, Doughs, refrigerated
2051 Bagels, Bakery products, partially cooked (not frozen), Bakery products, "perishable": bread, cakes, doughnuts, pastries, etc. (including croutons), Biscuits, baked: baking powder and raised, Bread, brown: Boston and other—canned, Buns (bakery products), Charlotte Russe (bakery products), Crullers, Knishes, Pastries: Danish, French, etc., Pies, except meat pies, Rolls (bakery products), Sponge goods (bakery products), Sweet yeast goods
2052 Bakery products, "dry": biscuits, crackers, pretzels, etc. Biscuits, baked: dry, except baking powder and raised biscuit, Cookies, Crackers: graham, soda, etc., Saltines, Zwieback, machine-made
2098 Macaroni and products, dry: including alphabets, rings, seashells, etc., Noodles: egg, plain and water, Spaghetti, except canned, Vermicelli
2099 Pizza, refrigerated: not frozen

Table B. List of wheat end products which could technically be included in the "end product" definition, but which should be exempted under rules issued pursuant to § 1280.151(a)(2) of the proposed Order, and Section 1705(d) and Section 1716 of the Act.

SIC No.

2034 Soup mixes and powders
2035 Sauces
2038 Frozen dinners
2052 Cones, ice cream
2085 Distilled, Rectified, and Blended Liquors

The rate of assessment may not exceed the statutory maximum of five cents per hundredweight of processed wheat purchased or transferred. Further, § 1280.151 of the Order specifies that assessments may not exceed one cent per hundredweight during the first 2 years that assessments are collected. The Council may recommend changes in the rate of assessment subject to approval by the Secretary.

The Wheat Industry Council is authorized to set aside funds in an operating reserve and to budget for such a reserve. Such a reserve will allow the Council to meet expenses already committed to in the event that the amount of assessments should decrease unexpectedly. The size of the reserve should be determined by the Council, with the approval of the Secretary, on the basis of the level of assessments being received, and the existing liabilities and anticipated expenses.

Refunds. Assessments are due from commercial end product manufacturers. There are relatively few such firms, in comparison with the numbers of producers who have been subject to assessments under other research and education orders, and some of these firms are extremely large. Obviously, one very large end product manufacturer unexpectedly requesting a refund of its assessments could cripple ongoing plans and projects undertaken in expectation of receiving such assessments. Therefore, in order to allow the Council to undertake planning of its activities with a reasonable degree of certainty, the order provides for a refund election procedure. Under such procedure, end product manufacturers will have a 60-day period from the date of publication of the summary of the Council budget, to elect to reserve the right to seek refunds. Only those end products manufacturers making such an election shall be eligible for refunds of assessments paid during the one year period immediately following the 60-day election period.

In practice, the initial budget summary would be published 60 days prior to the date on which the obligation to pay assessments will vest. All end product manufacturers not reserving the right to request refunds during this 60-day period would thereafter be committed to pay assessments for the first year of the program. Thereafter, a summary of the second year's budget would be published 60 days before the beginning of the second year of the program, and so on.

The budget summary would include a brief general description of the proposed research and nutrition education programs contemplated. The description should be sufficient to allow end product manufacturers to evaluate the Council's proposed program and make a considered decision on whether to elect to reserve the right to seek refunds.

A similar election period and procedure would apply with respect to amendments to the budget. However, this provision would be interpreted to require a summary of budget amendments to be published only in the case of amendments so significant as to substantially change the nature of the ongoing plans or projects upon which the most recent refund election was based. This is essential to avoid the confusion and severe administrative burden on the Council that would result from publication of a new budget summary, and initiation of a new refund election period, on the basis of every minor change in the budget. If, however, there were a change in the Council's priorities of the magnitude described, a description of the budget amendments entailed by such change would be published. All persons subject to the assessment would thereafter have 60 days within which to make the election.

In order to avoid confusion if such a mid-year budget amendment is published, the order provides that an election made on the basis of a budget amendment shall apply only until the end of the one year period then in effect with respect to the annual budget.

If there is such a mid-year change in Council plans and priorities all end product manufacturers which have not already elected to reserve the right to request refunds will be given an opportunity to do so. The right will apply only until the end of the budget

period then in effect. By that time, however, such persons will have had an opportunity to make a further election based on the publication of the summary of the next annual budget. This procedure will carry out the intent of the Act in allowing end product manufacturers to make an informed decision on whether to reserve the right to seek refunds. And it will give them the necessary information upon which to base this decision. However, it will avoid the confusion and additional administrative expense that could otherwise result from overlapping refund eligibility periods due to a change in priorities in the middle of a budget year.

The order allows end product manufacturers who have paid an assessment, but reserved the right to seek a refund to demand and receive from the Council a refund of assessments they have paid. The refund procedure, in combination with the obligation to describe proposed plans and projects to end product manufacturers 60 days in advance of the initiation of assessments, should provide a good check to insure that the Council plans its activities, and spends assessments, wisely. As provided in the Act, the demand for the refund shall be made by end product manufacturers, in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary. It will also require submission of proof satisfactory to the Council that the end product manufacturer paid the assessment. Any such refund shall be made within 60 days after demand is received.

Expenses. Council expenses shall be paid from assessments received and any other funds which accrue to the Council. The Council may incur expenses which are found by the Secretary to be reasonable for the functioning and maintenance of the Council and necessary for the Council to exercise its powers and duties.

The Act and its legislative history make it clear that the expenses of the Council shall include reimbursement by the Council to the Secretary for such expenses as the Secretary determines were incurred by the government in preparation of an original order and for the conduct of the referendum and, subsequently, for all administrative costs, including salaries, which the Secretary determines are incurred by the government under the approved Order.

(e) *Records and Reports.* The Act authorizes the Secretary and the Council to establish record keeping and reporting requirements in the order and in the regulations issued under the Order. Further, the legislative history of the Act makes it clear that such record keeping and reporting requirements shall be the minimum necessary, consistent with the achievement of the objectives of the Act. However, the Act and the legislative history makes it clear that record keeping and reporting requirements shall be subject to the discretion of the Secretary and the Council and shall include all information deemed necessary or appropriate to the effectuation, administration and enforcement of the Act, Order and regulations. It would not be appropriate in view of Congressional intent to limit in any way this discretion by including the proposed section 1280.159 and, therefore, that section of the proposed order has been deleted.

The Act imposes requirements on end product manufacturers to keep records and make such reports as necessary to the effectuation, administration, and enforcement of the Act and the Order or regulations issued pursuant to it. The Council has authority, with approval of the Secretary, to establish regulations requiring end product manufacturers to keep necessary books and records and to report to the Council periodically as the Council determines is necessary. Details on the information needed in records and reports and the frequency and timing of reports are to be established by the Council and shown in the regulations. Record evidence indicates some concern that unduly burdensome requirements may be imposed on end product manufacturers. It was suggested that existing records systems of the industry should be utilized to the extent possible, and the Council should be cognizant of this recommendation when formulating regulations for approval by the Secretary.

All books and records required under the regulations must be made available by end product manufacturers for inspection by representatives of the Council or the Secretary as necessary to verify reports on assessments made and forwarded to the Council. These records are to be retained at least 2 years beyond the fiscal year of their applicability. Such a time period is necessary to permit the completion of authorized audits, investigation, or other actions that may be necessary in administering and enforcing the provisions of the Order and the Act.

Representatives of the Council or the Secretary, while acting in their official capacities, on occasion are likely to have access to records and accounts of end product manufacturers, processors and distributors of processed wheat, and others which may reveal trade secrets. The Act requires that the confidential nature of such business records be protected. Therefore, the Order provides that informtion obtained from books, records, and reports required of end product manufacturers and information about refunds made to end product manufacturers, shall be kept confidential by employees of the Council and of the Department of Agriculture. Also, any such information which becomes available to contracting parties should be kept confidential by officers and employees of such parties. However, the Secretary retains the authority to permit disclosure of such information, but only in a suit or administrative hearing relevant to the Order brought at the direction, or upon the request, of the Secretary of Agriculture, or to which any officer of the United States is a party.

It should be recognized that some information about the program may be of interest and benefit to the general public. Accordingly, the Order does not prohibit (1) the issuance of general statements concerning the number of persons subject to the Order or statistical data collected which do not identify the information furnished by any person; (2) the publication, as approved by the Secretary, of general statements relating to refunds made by the Wheat Industry Council which do not identify any person to whom a refund is made; or (3) the publication by direction of the Secretary of the name of any person violating the Order, together with a statement of the provisions of the Order violated.

(f) *Other Terms and Conditions.* The record shows a need for several other miscellaneous terms and conditions as shown in §§ 1280.166 through 1280.172 of the Order. Each section sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the Order. These provisions are incidental to, and not inconsistent with, the terms and conditions of the Act, are necessary to effectuate the other provisions of the Order, and are supported by the record evidence.

Rulings on Briefs, Proposed Findings, and Conclusions

At the close of the hearing, the Administrative Law Judge fixed April 24, 1979, as the final date for interested parties to file briefs, proposed findings, and conclusions based on the evidence received at the hearing. One brief was filed on behalf of the Wheat and Wheat Foods Foundation by Donald H.

Heitman, Attorney, Wheat and Wheat Foods Foundation, Washington, D.C.

The brief reiterated points made by witnesses at the hearing. The points in the brief were carefully considered along with the record evidenced received at the hearing in making the findings and conclusions set forth herein as discussed in this recommended decision. To the exent that the suggested findings and conclusions are inconsistent with the findings and conclusions as set forth herein, requests to make such findings or reach such conclusions are denied for the reasons previously cited in this decision.

General Findings

On the basis of the evidenced presented at the hearing and the record thereof, it is found that:

1. The Wheat and Wheat Foods Research and Nutrition Education Order and all of the terms and conditions thereof as hereinafter set forth will tend to effectuate the declared policy of the Act; and

2. The following terms and conditions of the Order are recommended as a detailed means of carrying out the declared policy of the Act with respect to the development of effective and continuous coordinated programs of research and nutrition education for wheat, processed wheat and wheat end products with adequate financing through assessments on the purchase of processed wheat.

Recommended Wheat and Wheat Foods Research and Nutrition Education Order

The following national Research and Nutrition Education Order is recommended as the appropriate means by which the foregoing conclusions may be carried out.

A new subpart is added to Part 1280 of Title 7, CFR as follows:

PART 1280—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION

Subpart—Wheat and Wheat Foods Research and Nutrition Education Order

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Sec.

1280.145 Research and nutrition education.

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1280.160 Reports.
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1280.166 Suspension and termination.
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1280.171 Amendments.
1280.172 Separability.

Authority: Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et., seq.).

Definitions

§ 1280.101 Wheat.

"Wheat" means all classes of wheat grains grown in the United States.

§ 1280.102 Processed wheat.

"Processed wheat" means the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means.

§ 1280.103 End Product.

"End product" means any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional incidental preparation which may be necessary by the ultimate consumer.

§ 1280.104 Wheat producer.

"Wheat producer" means any person who grows wheat within the United States for market.

§ 1280.105 Processor.

"Processor" means any person who commercially produces processed wheat within the United States.

§ 1280.106 End product manufacturer.

"End product manufacturer" means any person who commercially produces an end product within the United States, but such term shall not include such persons to the extent that they produce end products on the premises where such end products are to be consumed by an ultimate consumer, including, but not limited to, hotels, restaurants, and institutions, nor shall such term include persons who produce end products for their own personal, family, or household use.

§ 1280.107 Research.

"Research" means any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

§ 1280.108 Nutrition education.

"Nutrition education" means any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat, and end products.

§ 1280.109 Wheat Industry Council or Council.

"Wheat Industry Council" or "Council" means the administrative body established pursuant to § 1280.130.

§ 1280.110 Department.

"Department" means the United States Department of Agriculture.

§ 1280.111 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

§ 1280.112 Person.

"Person" means any individual, partnership, corporation, association or other entity.

§ 1280.113 United States.

"United States" means the several States and the District of Columbia, including any territory or possession.

§ 1280.114 Fiscal period.

"Fiscal period" means the calendar year or such other period as the Council may determine.

§ 1280.115 Eligible organization.

"Eligible organization" means any organization or association which has been certified by the Secretary pursuant to § 1280.165.

§ 1280.116 Representative of wheat producers.

"Representative of wheat producers" means a wheat producer, the owner, officer, or employee of a producer, or an officer, or employee of an organization or association representing wheat producers certified under § 1280.165.

§ 1280.117 Representative of processors.

"Representative of processors" means a processor, the owner, officer, or employee of a processor, or an officer, or employee of an organization or association representing processors certified under § 1280.165.

§ 1280.118 Representative of end product manufacturers.

"Representative of end product manufacturers" means an end product manufacturer, the owner, officer, or employee of an end product manufacturer, or an officer or employee of an organization or association representing end product manufacturers certified under § 1280.165.

§ 1280.119 Representative of consumers.

"Representative of consumers" means a consumer, or an officer or employee of an organization or association representing consumers certified under § 1280.165.

§ 1280.120 Part and subpart.

"Part" means 7 CFR Part 1280, containing rules, regulations, orders, supplemental orders and similar matters concerning the Wheat and Wheat Foods Research and Nutrition Education Act. "Subpart" means any portion or segment of such part.

§ 1280.121 Retail baker.

"Retail baker" means an end product manufacturer who sells end products directly to the ultimate consumer: *Provided,* That such term shall not include any end product manufacturer who derives less than 10 percentum of gross end product sales revenues from sales to ultimate consumers or who derives 10 percentum or more of gross food or food product sales revenue from the sale of such products manufactured or produced by others.

§ 1280.122 Intra-company transfers.

"Intra-company transfers" means sales or transfers of processed wheat for use in the manufacture of end products to end product manufacturers from related companies or divisions of the same company.

§ 1280.123 Related companies or divisions of the same company.

"Related companies or divisions of the same company" means subsidiaries, affiliates, or divisions of an end product manufacturer which are controlled by, controlling, or under common control with, such end product manufacturer.

§ 1280.124 Control.

"Control" including the terms "controlling", "controlled by", and "under common control with", means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract, or otherwise.

§ 1280.125 Act.

"Act" means the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et. seq.) and any amendments thereto.

§ 1280.126 Plans and projects.

"Plans and projects" means those research and nutrition education plans, studies or projects pursuant to § 1280.145.

Wheat Industry Council

§ 1280.130 Establishment and membership.

There is hereby established a Wheat Industry Council of twenty members, each of whom shall have a specific alternate. The Council shall be composed equally of representatives of wheat producers, processors, end product manufacturers and consumers, appointed by the Secretary from nominations submitted by eligible organizations certified pursuant to § 1280.165, or from nominations in a manner authorized by the Secretary pursuant to § 1280.132(a).

§ 1280.131 Term of office.

The members of the Council and their alternates shall serve for terms of two years, except appointments to the initial Council shall be proportionately for terms of two and three years. Each member and alternate member shall continue to serve until his successor is appointed by the Secretary and has qualified. No member or alternate shall serve more than three consecutive terms in such capacity, but service of three consecutive terms in one capacity will not disqualify any person from appointment in another capacity.

§ 1280.132 Nominations.

All nominations authorized under § 1280.130 shall be made in the following manner:

(a) Within 60 days after approval of this order by referendum, or such other period as determined by the Secretary, nominations shall be submitted to the Secretary as specified in paragraph (d) of this section by eligible organizations or associations certified pursuant to § 1280.165. Alternatively, if the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers or consumers are not members of, or their interests are not represented by, any such eligible organizations or associations, then nominations shall be submitted by such wheat producers, processors, end product manufacturers and consumers in a manner authorized by the Secretary;

(b) After the establishment of the initial Council, the nominations for subsequent Council members and alternates shall be submitted to the Secretary not less than sixty days prior to the expiration of the terms of the members and alternates previously appointed to the Council;

(c) Where there is more than one eligible organization or association representing wheat producers, processors, or end product manufacturers within any geographic area, or within any segment of the wheat producing, processing, or end product manufacturing industry, they may caucus for the purpose of jointly nominating two or more qualified persons for each member and alternate member to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each eligible organization or association may submit to the Secretary two or more nominations for each appointment to be made;

(d) In selecting such members and their alternates, factors such as those listed below shall be considered in determining equitable representation on the Council:

(1) For wheat producers, class and volume of wheat produced and geographic distribution;

(2) For processors, class of wheat processed, amount of wheat processed and geographic distribution;

(3) For end product manufacturers, the generic type of end product produced by each segment of the end product industry (baked goods, biscuits and crackers, cereals, pasta products) and the percentage each such segment uses of the total processed wheat used by all such segments of the end product industry; and

(4) For consumers, the factor set out in § 1280.165.

§ 1280.133 Appointment.

From the nominations made pursuant to § 1280.132, the Secretary shall appoint the members of the Council, and an alternate for each such member, on the basis of representations provided for in §§ 1280.130, 1280.131 and 1280.132.

§ 1280.134 Acceptance.

Any person appointed by the Secretary as a member, or as an alternate member, of the Council shall qualify by filing a written acceptance with the Secretary within a period of time prescribed by the Secretary.

§ 1280.135 Vacancies.

To fill any vacancy occasioned by the failure to qualify of any person appointed as a member, or as an alternate member, of the Council, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the Council, a successor for the unexpired term of such member or alternate member shall be nominated, qualified, and appointed in the manner specified in §§ 1280.130, 1280.132(b)(c)(d), 1280.133 and 1280.134, except that replacement of a Council member, or alternate, with an unexpired term of less than six months is not necessary.

§ 1280.136 Alternate members.

An alternate member of the Council, during the absence of the member for whom he is the alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is appointed and has qualified.

§ 1280.137 Procedure.

(a) A majority of the members, including alternates acting for members of the Council, shall constitute a quorum, and any action of the Council shall require the concurring votes of at least a majority of those voting.

(b) For routine and non-controversial matters which do not require deliberation and exchange of views, and in matters of an emergency nature when there is not enough time to call an assembled meeting of the Council, the Council may take action upon the concurring votes of a majority of its members by mail, telephone, or telegraph, but any such action by telephone shall be confirmed promptly in writing.

§ 1280.138 Compensation and reimbursement.

The members of the Council and alternates shall serve without compensation but shall be reimbursed for necessary and reasonable expenses, as approved by the Council, incurred by them in the performance of their duties under this subpart.

§ 1280.139 Powers of the Council.

The Council shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 1280.140 Duties.

The Council shall have the following duties:

(a) To meet and organize and to select from among its members a chairman and such other officers as may be necessary, to select committees and subcommittees of Council members, and to adopt such rules for the conduct of its business as it may deem advisable. The Council may also establish advisory committees of persons other than Council members and pay the necessary and reasonable expenses of the members of such committees;

(b) To appoint from its members an executive committee consisting of not less than 4 nor more than 8 members, and to delegate to the committee authority to administer the terms and provisions of this subpart under the direction of the Council and within the policies determined by the Council, if such a committee is believed to be necessary or appropriate, and to appoint or employ such persons as it may deem necessary and define the duties and determine the compensation of each;

(c) To develop and submit to the Secretary for approval, research plans or projects and nutrition education plans or projects resulting from research conducted either by the Council or others;

(d) To prepare and submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of this subpart, including probable costs of research and nutrition education plans or projects, and also including a general description of the proposed research and nutrition programs contemplated therein;

(e) To prepare a summary of the approved annual budget, or amendments thereto, including a brief general description of the proposed research and nutrition education programs contemplated therein, which shall be published promptly in the Federal Register.

(f) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time, to the Secretary, as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(g) With the approval of the Secretary, to enter into contracts or agreements for the development and conduct of the activities authorized under § 1280.145 of this subpart and for the payment of the cost thereof with funds collected through the assessments pursuant to § 1280.151. Any such contract or agreement shall provide that: (1) the contractors shall develop and submit to the Council a plan or project together with a budget or budgets which shall show the estimated cost to be incurred for such plan or project; (2) any such plan or project shall become effective upon approval of the Secretary; and (3) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require;

(h) With the approval of the Secretary, to invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under § 1280.151 in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank which is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(i) To prepare and make public, at least annually, a report of its activities

carried out and an accounting for funds received and expended;

(j) To cause its books to be audited by a certified public accountant at least once each fiscal period and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(k) To give the Secretary the same notice of meetings of the Council as is given to members in order that he or his representative may attend such meetings; and

(l) To submit to the Secretary such information pursuant to the subpart as he may request.

Research and Nutrition Education

§ 1280.145 Research and nutrition education.

The Council shall develop and submit to the Secretary for his approval any plans or projects authorized in this section. Such plans or projects shall provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate plans or projects for nutrition education, both within the United States and in international markets, with respect to wheat, processed wheat, and end products;

(b) The establishment and conduct of research or studies with respect to sale, distribution, marketing, utilization or production of wheat, processed wheat, and end products and the creation of new products thereof to the end that marketing and utilization of wheat, processed wheat, and end products may be encouraged, expanded, improved, or made more acceptable;

(c) Each plan or project authorized under paragraph (a) or (b) of this section shall be periodically reviewed or evaluated by the Council to insure that each such plan or project contributes to an effective coordinated program of research and nutrition education. If it is found by the Council that any such plan or project does not further the purposes of the Act, then the Council shall terminate such plan or project; and

(d) In carrying out any plan or project, no reference to a private brand or trade name shall be made unless the Secretary determines that such reference will not result in undue discrimination against wheat, processed wheat or end products of other persons. No such plans or projects shall make use of unfair or deceptive acts or practices with respect to the quality, value or use of any competing product.

Expenses and Assessment

§ 1280.150 Expenses.

(a) The Council is authorized to incur such expenses, (including provision for a reasonable reserve), as the Secretary finds are reasonable and likely to be incurred by the Council for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from assessments received pursuant to § 1280.151.

(b) The Council shall reimburse the Secretary, from assessments, for all the expenses and expenditures, including any referendum and administrative costs incurred by the Secretary under the Act, as the Secretary finds are reasonable and likely to be incurred under this subpart during any period specified by the Secretary.

§ 1280.151 Assessments.

(a) Each end product manufacturer shall pay to the Council, pursuant to regulations issued by the Council, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat with respect to which no assessment has been paid or scheduled for payment, for use in the manufacture of end products, from processors, distributors, or (in the case of such intra-company transfers) related companies or divisions of the same company: *Provided,* That no person, including any end production manufacturer who makes intra-company transfers, shall be required to pay more than one assessment with respect to the same processed wheat, whether or not such processed wheat is further processed by such person: *And provided further,* That the following end product manufacturers shall be exempt from such assessment:

(1) Retail bakers, as defined in § 1280.121, including any end product manufacturer who does not purchase more than 2,000 hundredweights of processed wheat per year for use in the manufacture of end products; *Provided,* That any person exempted under this subparagraph may waive such exemption, upon application to and approval by the Council, and thereafter will be treated as a non-exempt end product manufacturer under this subpart unless and until such person requests that such exemption be reinstated.

(2) End product manufacturers who manufacture specified end products, or types or categories thereof, which are exempted under rules or regulations issued pursuant to § 1716 of the Act to the extent of the processed wheat they purchase for use in the manufacture of such exempted products.

(b) The Council, with the approval of the Secretary, shall set the amount of the assessment, not to exceed five cents per hundredweight of processed wheat purchased or transferred: *Provided, however,* That the assessment rate for the first two years of the effectiveness of the order shall not exceed one cent per hundredweight.

(c) In order to enable end product manufacturers to calculate the amount of processed wheat they have purchased, persons selling or transferring processed wheat in combination with other ingredients to such end product manufacturers for use in the manufacture of end products shall disclose to such end product manufacturers the amount or proportion of processed wheat contained in such products, plus or minus 3 per centum.

(d) End product manufacturers shall remit assessments to the Council at such times and in such manner as prescribed by regulations issued by the Council, but in no case shall assessments be required to be remitted more often than quarterly.

§ 1280.152 Refunds.

(a) Subsequent to the publication of the summary of the Council budget, or amendments thereto, provided for under § 1280.140(e), all end product manufacturers not exempt from the assessments under § 1280.151 shall have 60 days from the date of publication within which to elect to reserve the right to seek refunds under paragraph (b) of this section. Reserving the right to seek refunds shall be indicated to the Council in writing, by registered or certified mail under such conditions as the Secretary may prescribe. Only those end product manufacturers who make such an election, under the described procedure, shall be eligible for refunds of assessments paid during the one-year period immediately following the expiration of such 60-day period: *Provided,* That, an election made on the basis of a budget amendment shall apply only until the end of the one-year period then in effect with respect to the annual budget.

(b) Notwithstanding any other provision of this subpart, any end product manufacturer who has been subject to and has paid an assessment, but who has reserved the right, under paragraph (a) of this section, to seek a refund, and who is not in favor of supporting the programs as provided for herein, shall have the right to demand and receive from the Council a refund of such assessment: *Provided,* That such demand shall be made by such end

product manufacturer in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary and upon submission of proof satisfactory to the Council that the end product manufacturer paid the assessment for which refund is sought, and any such refund shall be made within 60 days after demand is received therefor.

§ 1280.153 Influencing governmental action.

No funds collected by the Council under this subpart shall in any manner be used for the purpose of influencing governmental policy or action, except to recommend to the Secretary amendments to this subpart.

Reports, Books and Records

§ 1280.160 Reports.

Each end product manufacturer subject to this subpart, and other persons subject to section 1705(c) of the Act, may be required to report to the Council periodically such information as is required by the regulations recommended by the Council and approved by the Secretary. Such information may include but not be limited to the following:

(a) The number of hundredweights of processed wheat purchased, sold, or initially transferred (as described in § 1280.122 and § 1280.151(a)) for use in the manufacture of end products;

(b) The number of hundredweights of processed wheat on which an assessment was paid; and

(c) The date any assessment was paid.

§ 1280.161 Books and records.

Each end product manufacturer who is subject to this subpart, and other persons subject to section 1705(c) of the Act, shall maintain and make available for inspection by the Council or the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued hereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the fiscal period of their applicability.

§ 1280.162 Confidential treatment.

All information obtained from such books, records or reports under the Act and this part, and all information pertaining to refund requests and refunds, shall be kept confidential by all officers and employees of the Department, the Council, and by all officers and employees of contracting agencies having access to such information. Only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit: (a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person, (b) the publication, by direction of the Secretary, of general statements relating to refunds made by the Council during any specific period, or (c) the publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of the subpart violated by such person.

Certification of Organizations

§ 1280.165 Certification of organizations

(a) Any organizations or association may request the Secretary for certification of eligibility to participate in nominating members and alternate members of the Council to represent wheat producers, processors, end product manufacturers or consumers. Such eligibility shall be based, in addition to other available information, upon a factual report submitted by the organization or association which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to the following:

(1) Geographic territory covered by the organization's active membership;

(2) Nature and size of the organization's active membership, including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization;

(3) The extent to which wheat producer, processor, or end product manufacturer membership, respectively, of such organization is represented in setting the organization's policies;

(4) Evidence of stability and permanence of the organization;

(5) Sources from which the organization's operating funds are derived;

(6) Functions of the organization; and

(7) The organization's ability and willingness to further the aims and objectives of the Act.

(b) The primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacturing of wheat or wheat products, and the nutritional attributes thereof.

(c) In determining the eligibility of a consumer organization, the primary consideration shall be whether (1) a principal purpose of the organization is to promote consumer interest, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of the Act.

(d) The Secretary shall certify any organization or association which is found to be eligible under this section and the determination as to eligibility shall be final. After the original certification of organizations, such organizations shall request recertification every five years and the Secretary may require recertification at any time.

Miscellaneous

§ 1280.166 Suspension and termination.

(a) The Secretary shall, whenever it is found that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percentum or more of the number of end product manufacturers subject to this subpart, to determine whether such manufacturers favor the termination or suspension of the subpart, and the Secretary shall suspend or terminate such subpart within six months after the Secretary determines that suspension or termination of the subpart is approved or favored by a majority of the end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50

percentum of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

§ 1280.167 Proceedings after termination.

(a) Upon the termination of this subpart the Council shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Council. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property then in the possession or under the control of the Council, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall: (1) continue in such capacity until discharged by the Secretary; (2) carry out the obligations of the Council under any contracts or agreements entered into by it pursuant to § 1280.140(g); (3) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Council and of the trustees, to such persons as the Secretary may direct; and (4) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Council or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations imposed upon the Council and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of coninuing one or more of the research or nutrition education plans or projects hitherto authorized.

§ 1280.168 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may hereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the Unites States, or of the Secretary, or of any person, with respect to any such violation.

§ 1280.169 Personal liability.

No member, alternate member or employee of the Council shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts either of commission or omission, of such member, alternate or employee, except for acts of dishonesty or willful misconduct.

§ 1280.170 Patents, copyrights, inventions and publications.

Any patents, copyrights, inventions, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the U.S. Government as represented by the Council, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale leasing, franchising, or other uses of such patents, copyrights, inventions, or publications, inure to the benefit of the wheat and wheat foods industry. Upon termination of this subpart, § 1280.167 shall apply to determine disposition of all such property.

§ 1280.171 Amendments.

Amendments to the subpart may be proposed, from time to time by the Council, or by any organization or association certified pursuant to § 1714 of the Act, or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1280.172 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart or the applicability thereof to other or circumstances shall not be affected thereby.

Copies of this recommended decision may be procured from W. David Spalding, Livestock, Poultry, Grain and Seed Division, Agricultural Marketing Service, Room 2610 South Building, United States Department of Agriculture, Washington, D.C. 20250, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on September 4, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-27983 Filed 9-6-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 1280]

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education; Procedure for the Conduct of Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: The proposed regulation would establish the procedure for the conduct of referendums with respect to any Wheat and Wheat Foods Research and Nutrition Education Order or amendment issued pursuant to the Wheat and Wheat Foods Research and Nutrition Education Act. An initial referendum would not be held unless the Secretary determines, based on public hearing evidence, that an Order would carry out the intent of the legislation. This regulation is necessary because the Act provides that an Order must be approved in a referendum among eligible end product manufacturers before it can become effective.

DATE: Comments must be received by October 22, 1979.

ADDRESS: Send written comments to Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: W. David Spalding, Livestock, Poultry, Grain and Seed Division, AMS, USDA, Washington, DC 20250, Phone: 202-447-3970.

SUPPLEMENTARY INFORMATION: The Act provides that the Secretary of Agriculture shall issue a Wheat and Wheat Foods Research and Nutrition Education Order, or amendments thereto, applicable to end product manufacturers, if the Secretary finds and sets forth in such order, upon evidence introduced at hearing, that such order or amendment will tend to effectuate the declared policy of the Act. The Act further provides that the Secretary shall conduct a referendum among end product manufacturers for the purpose of ascertaining whether the issuance of an Order is approved or favored by end product manufacturers. This proposed procedure for the conduct of referendums is in accordance with the

authority vested in the Secretary of Agriculture by the Act.

The following terms: wheat, processed wheat, end product, end product manufacturer, retail baker, United States, related companies or divisions of the same company, and control are defined in the Order itself and shall have the same meaning as therein.

The public is invited to submit written exceptions or recommendations regarding the proposed regulations to the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, DC 20250, no later than (45 days after publication in the Federal Register), to be sure of considerations. Each person submitting comments, suggestions, or objections regarding the proposed regulations shall include the person's name and address and give reasons for any suggested changes. Copies of all written communications received will be available for examination by interested persons at the office of the Hearing Clerk during regular business hours.

In accordance with the above, it is proposed to amend 7 CFR Part 1280 by adding a new Subpart as follows:

Subpart 1280.2—Procedure for the Conduct of Referendums in Connection With Wheat and Wheat Foods Research and Nutrition Education Order

Sec.

1280.200 Referendums.
1280.201 Definitions.
1280.202 Supervision of Referendums.
1280.203 Requirements of Referendum.
1280.204 Computation of Time.
1280.205 Public Notice.
1280.206 Eligibility.
1280.207 Registration.
1280.208 Voting.
1280.209 Challenge of Eligibility.
1280.210 Canvassing Ballots.
1280.211 Results of the Referendum.
1280.212 Disposition of Ballots and Records.
1280.213 Suspension and Termination of Order.
1280.214 Instructions and Forms.

Authority: Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95–113, 95th Cong., approved September 29, 1977, 7 U.S.C. 3401–3417.

§ 1280.200 Referendums.

Referendums for the purpose of ascertaining whether the issuance by the Secretary of Agriculture of a Wheat and Wheat Foods Research and Nutrition Education Order, or the amendment, continuance, termination, or suspension of such an Order, is favored by end product manufacturers shall, unless supplemented or modified by the Secretary, be conducted in accordance with this Subpart.

§ 1280.201 Definitions.

(a) "Secretary" means the Secretary of Agriculture or any other officer or employee of the U.S. Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

(b) "Act" means the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 *et seq.*) and any amendments thereto.

(c) "Administrator" means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any other officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(d) "Referendum agent" means the individual or individuals designated by the Secretary to conduct the referendum.

(e) "Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(f) "Qualified" or "eligible" end product manufacturer means any end product manufacturer as defined in the Order who used at least 2000 hundredweight of processed wheat per year in the manufacture of end products which are subject to assessment and who is not subject to exemption from payment of assessments as a retail baker.

(g) "Order" means the Wheat and Wheat Foods Research and Nurtrition Education Order or any amendment thereto promulgated pursuant to the Act with respect to which the Secretary has directed that a referendum be conducted.

(h) "Representative Period" means a consecutive twelve-month period preceding the registration period as designated by the Secretary.

(i) "Registration Period" means a period to be announced for the registration of end product manufacturers who desire to vote in a referendum. The registration period shall end not less than 30 days prior to the first day of the voting period.

(j) "Voting Period" means a 12–day period to be announced for voting in a referendum.

§ 1280.202 Supervision of referendum.

The Administrator shall be in charge of and responsible for conducting each referendum in accordance with this Subpart.

§ 1280.203 Requirements of referendum.

No Wheat and Wheat Foods Research and Nutrition Education Order or amendment issued under the Act shall become effective unless the Secretary determines (a) that valid ballots were cast by at least 50 percent of the eligible end product manufacturers registered to vote, and (b) that the issuance of such Order is approved or favored by not less than two-thirds of the end product manufacturers casting valid ballots in such referendum or by a majority of the end product manufacturers voting in such referendum if such majority manufactured end products containing not less than two-thirds of the total processed wheat contained in all end products manufactured during the representative period by those voting in the referendum.

§ 1280.204 Computation of time.

Sundays and Federal holidays shall be included in computing the time allowed for the filing of any documents or taking any action: *Provided,* That when such time expires on a Sunday or a Federal holiday, such period shall be extended to include the next following business day.

§ 1280.205 Public notice.

Advance public notice of the referendum shall be provided by the Administrator (a) by utilizing, without advertising expense, available media of public information (including, but not limited to press and radio facilities) to announce the dates for registration and voting, eligibility requirements and other pertinent information, and (b) by such other means as the Administrator may deem advisable.

§ 1280.206 Eligibility.

(a) *Eligible End Product Manufacturer.* Each end product manufacturer who, during the representative period, used at least 2000 hundredweight of processed wheat in the manufacture of end products which are subject to assessment, and who is not subject to exemption from payment of assessments as a retail baker, is entitled to register and to cast one vote in the referendum. Related companies or divisions of the same company as defined in the order shall not be entitled to cast individual ballots in the referendum.

(b) *Proxy Registration and Voting.* Proxy registration and voting is not authorized except that an officer or employee of a corporate end product manufacturer, or any guardian, administrator, executor, or trustee of the estate of an end product manufacturer, or an authorized representative of any end product manufacturing entity other than an individual proprietor, such as a corporation or partnership may register and cast a ballot on behalf of such

entity. Any individual registering to vote in the referendum on behalf of any end product manufacturing entity shall certify that the individual is authorized by such entity to take such action.

§ 1280.207 Registration.

(a) *Registration Procedure.* The referendum agent will mail registration forms and instructions and, except in the case of a referendum on the termination or continuance of an order, a summary of the terms and conditions of the order to each eligible end product manufacturer whose name and address are known to the referendum agent. To register each end product manufacturer must complete the registration form and mail it to the referendum agent during the registration period. A registration form shall be considered received during the registration period if it was postmarked not later than midnight on the final day of the registration period and was received by the referendum agent prior to the close of business on the fourth day after the close of the registration period. At the time of registration each end product manufacturer shall certify to the referendum agent, in the manner prescribed, the amount of processed wheat contained in the end products manufactured by such end product manufacturer during the representative period: *Provided,* That no person who claims to be eligible to register shall be refused a registration form.

(b) *List of Registered End Product Manufacturers.* The referendum agent shall determine which end product manufacturers are eligible to vote in the referendum and publish the list of eligible voters. The list shall include all persons who submitted a valid registration form in a timely manner.

§ 1280.208 Voting.

Voting instructions and ballots shall be mailed by the referendum agent to eligible end product manufacturers who have registered with the agent: *Provided,* That no person who claims to be qualified to vote shall be refused a ballot. Ballots will not be provided or accepted prior to the voting period. Each registered end product manufacturer shall cast his or her ballot on the form provided for that purpose by mailing it to the referendum agent during the voting period.

A ballot shall be considered to have been received during the voting period if it was postmarked not later than midnight on the final day of the voting period and was received by the referendum agent prior to the close of business on the fourth day after the close of the voting period. The ballot shall be marked to indicate "yes" or "no" and must be signed by the end product manufacturer. Ballots received by the referendum agent shall be kept in the agent's custody or secured at all times until they are disposed of pursuant to section 1280.212.

§ 1280.209 Challenge of eligibility.

(a) *Who May Challenge.* A person's eligibility to register and vote may be challenged by any person. The referendum agent shall review all registrations and promptly challenge any registrant who appears to be ineligible. Any challenge of a person's eligibility to register and vote must be made prior to the end of the voting period.

(b) *Determination of Challenges.* Any person whose eligibility to register and to vote has been challenged must prove to the satisfaction of the referendum agent that he or she was an eligible end product manufacturer during the representative period. Records such as tax returns, sales documents, purchase documents, or other similar documents may be submitted to prove that a person is a qualified end product manufacturer. The referendum agent shall make a determination concerning the eligibility of an end product manufacturer who has been challenged as soon as practicable, and in all cases before the opening of the ballots.

(c) *Challenged Ballot.* A person whose eligibility to register or to vote has been challenged but not resolved by the referendum agent, if an appeal, may be allowed to cast a ballot, but such ballot shall be considered a challenged ballot for the purpose of the referendum until a resolution of the challenge has been made. A challenged ballot shall be determined to have been resolved if no appeal is taken from the determination of the referendum agent within the time allowed for appeal or there has been a determination by the Administrator after appeal.

(d) *Appeal.* Appeal from a decision by the referendum agent on the eligibility of a person to register or vote must be made to the Administrator within three business days after notification of such decision. An appeal shall be determined by the Administrator as soon as practicable, but in all cases not later than 5 days after the opening of the ballots.

§ 1280.210 Canvassing ballots.

(a) *Counting the Ballots.* As soon as possile after the start of business on the fifth day after the close of the voting period, the referendum agent shall open and count the ballots. The ballots shall be tabulated as follows: (1) number of eligible end product manufacturers casting valid ballots, (2) number of end product manufacturers favoring the order, (3) number of end product manufacturers not favoring the order, (4) the amount of processed wheat contained in the end products manufactured by end product manufacturers in each of the preceding three categories, (5) the number of challenged ballots deemed invalid, and (6) the number of spoiled ballots.

(b) *Spoiled Ballots.* Ballots shall be considered as spoiled ballots when they are unsigned, mutilated, or marked in such a way that it cannot be determined whether the ballot is a "yes" or "no" vote. Spoiled ballots shall not be considered as approving or disapproving the Order, or as a ballot cast in the referendum.

(c) *Confidentiality.* All ballots shall be treated as confidential and the contents of the ballots shall not be divulged except as provided for in this Subpart or as the Secretary may direct. The public may witness the opening of the ballots and the counting of the ballots, but shall remain a reasonable distance from the tabulation so as not to interfere with the tabulation or see how any person voted in the referendum.

§ 1280.211 Results of the referendum.

(a) The Administrator shall prepare and submit to the Secretary or the Secretary's designee a report of the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given and other information pertinent to analysis of the referendum and its results. The official results of the referendum shall be published in the **Federal Register.**

Summaries and related papers shall be available for public inspection in the office of the Director, Livestock, Poultry, Grain and Seed Division, AMS, U.S. Department of Agriculture, Room 2631 South Building, Washington, D.C.

(B) If the Administrator or the Secretary deems it necessary, the report of the results of the referendum shall be reexamined and checked by such persons as may be designated by the Administrator or the Secretary.

§ 1280.212 Disposition of ballots and records.

The referendum agent shall place the registration forms, list of registrants, eligible voter lists, voted ballots, challenged registration forms and challenged ballots found to be ineligible, spoiled ballots, and summaries in sealed containers marked with the identification of the referendum. Such records shall be placed under lock in a safe place under the custody of the

referendum agent for a period of not less than 12 months after the referendum. If no notice to the contrary is received from the Administrator by the end of such time, the records shall be destroyed.

§ 1280.213 Suspension and termination of order.

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of end product manufacturers subject to the Order, to determine whether such manufacturers favor the termination or suspension of the Order, and the Secretary shall suspend or terminate such Order within six months after the Secretary determines that suspension or termination of the Order is approved or favored by a majority of end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50 percent of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

§ 1280.214 Instructions and forms.

The Admininistrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this Subpart to govern the conduct of the referendum.

Signed at Washington, D.C., on September 4, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-27982 Filed 9-6-79; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[14 CFR Part 233 and 302]

[EDR-387/PDR-68, Economic Regulations Procedural Regulations Docket: 36497, dated August 31, 1979]

Transportation of Mail and Establishment of Mail Rates and Rules Applicable to Mail Rate Proceedings; Establishing Service Mail Rate Zones for Interstate, Overseas and Foreign Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is considering modifying the procedures by which it prescribes interstate, overseas and foreign service mail rates under section 406 of the Federal Aviation Act. The CAB proposes to end its present practice of prescribing fixed service mail rates, and in its place to establish zones for each category of mail, within which all rates would be deemed to be fair and reasonable. Each zone would be defined by maximum and minimum rates prescribed by the Board, and air carriers would be free to contract with the Postal Service for the carriage of mail at any price within the zone.

DATES: Comments by: October 22, 1979; Reply Comments by: November 6, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: September 17, 1979

The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Comments should be sent to Docket 36497, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Mark S. Kahan, Assistant Director, Fares, Rates, and Tariffs, Bureau of Domestic Aviation, or Lawrence Myers, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202/673-5858; 673-5791.

SUPPLEMENTARY INFORMATION: The Civil Aeronautics Board is considering modifying the procedures by which it regulates interstate, overseas, and foreign service mail rates[1] pursuant to section 406 of the Federal Aviation Act. 49 U.S.C. § 1376. At present the Board prescribes precise rates based on a two-element formula—a linehaul charge per ton-mile and a terminal charge per-pound—for each of several categories of mail service.[2]

Our current methodology is designed to reflect industry average costs for the domestic trunks and all-cargo carriers, and yields uniform rates which apply across the board to all mail markets, irrespective of the differences in the economic characteristics of these markets. In the most recently decided cases, we have expressed the view that these particular fully allocated cost methodologies generally tend to overstate the true economic cost of carrying mail, a service which is frequently performed as a byproduct of passenger services. See, *e.g.*, Order 78-12-159, pp. 34-35, 52.

We propose to stop prescribing mail rates in this way, and instead to establish, for each category of mail, rate zones which would operate similarly to the passenger fare zones established by the Airline Deregulation Act of 1978, § 1002(d)(4) of the Federal Aviation Act, as amended, 49 U.S.C. § 1482(d)(4), and by the Board in PS-80, 43 FR 39522 (September 5, 1978). Each zone would be defined by a maximum and a minimum rate prescribed by the Board, and within the zone all rates would be deemed to be fair and reasonable. The Postal Service and the air carriers would be free to contract for the carriage of mail at any price within each zone without action by the Board.

Under the Airline Deregulation Act of 1978, the Board's postal ratemaking function will terminate on January 1, 1985, and the Postal Service will assume full authority to contract for interstate and overseas airmail transportation. 49 U.S.C. § 1551(b)(1)(D). By acting now to replace fixed service mail rates with a range, we will ease the transition to the more competitive system contemplated by the Deregulation Act, by permitting economic forces to move service mail rates toward the actual costs involved without the need for substantial regulatory intervention. In addition, the Board in its recent rate investigations

[1] Interstate, overseas, and foreign service mail rates include, respectively, the rates of compensation established for the carriage of mail by aircraft, in commerce between, (a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same Territory or possession of the United States, or the District of Columbia; (b) a place in any State of the United States, or the District of Columbia; and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States; (c) a place in the United States and any place outside thereof; whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation. Service mail rates between points within Alaska and within Hawaii are also established by the Board under the Act. *See* sections 101(24) and 105(b)(1), 49 U.S.C. § 1301(24) and § 1305(b)(1).

[2] In the domestic formula, for example, recently established by Order 78-11-80, distance-related capacity costs are recovered through the line-haul element, while departure-related capacity costs and noncapacity costs are recovered through the terminal charge. Costs were assigned to mail service based on the allocation methods adopted in that proceeding. Order 78-11-80, *Priority and Non-priority Domestic Service Mail Rates Investigation* (November 16, 1978); see also, Order 78-12-159, *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation* (December 21, 1978). A single-element formula is applied in Alaska and Hawaii, traditionally separate ratemaking entities. In addition, mail rates within Alaska are established on a carrier-by-carrier basis.

has stated an intention to improve its ratemaking procedure by estimating what mail costs would be under competitive conditions, instead of allocating joint and common costs using traditional accounting techniques. *See* Order 78–11–80. Our proposal would hasten the realization of the price and service improvements we are seeking in this effort.

Interstate and Overseas Service Mail Rates

At present, the Board establishes the major domestic and international service mail rates through the hearing procedures prescribed by Part 302 of the Board's Procedural Regulations.[3] The prescription of fixed mail rates using quasi-judicial procedures is by its nature a grossly inefficient process which wastes Board resources, engenders lengthy litigation, and produces rate adjustments with far less facility than would a system which minimized regulatory intervention between the Postal Service and the air carriers. The existing ratemaking process involves petitions, answers, a Board finding to initiate the investigation, prehearing conferences to fix the issues and scope of the investigation, the preparation of direct and rebuttal exhibits by all the parties, a hearing before an administrative law judge (ALJ), briefs to the ALJ by all parties, the ALJ's Initial or Recomended Decision, party exceptions to the ALJ's findings and conclusions, requests for Board review (which are usually granted), briefs to the Board by all parties, the parties' oral arguments before the Board's decision, petitions for reconsideration, and the Board's decision on reconsideration. Efforts by Administrative Law Judges and Board staff in recent rate investigations to obtain stipulations of fact, to minimize redundant carrier participation, and to encourage informally negotiated agreements have been largely unsuccessful, and have had no significant success in shortening the duration of the litigation. It took the Board eight years to complete the two phases of the *Priority and Nonpriority Domestic Service Mail Rates Investigation* decided last year.[4]

We think the explanation for the length of time involved lies in three characteristics of the present process: (a) the analytical difficulty of determining a single correct rate for each category of mail service, or mail service as a whole, provided in combination with passenger and cargo service; (b) the byproduct character of most mail service combined with rates based on fully allocated cost, which means that mail revenues make a disproportionate contribution to profit on most flights, thus exaggerating the financial significance to carriers of even relatively minor adjustments in mail rates; and (c) uniform rates for carriers and flights with differing marginal costs of mail carriage. While we have for the future determined to use a formula updating techniques coupled with a semi-annual establishment of final future rates by show-cause order, *see* Order 78–11–80, pp. 25–31, this process still involves fixing uniform rates for carriers with different marginal costs and does nothing to reduce the incentive for air carriers and the Postal Service to litigate each rate adjustment.

The new approach we are considering, which relies more on competition than on regulatory involvement to produce service mail rates, would improve the administration of the mail rate process. The annals of the Board's mail ratemaking proceedings demonstrate how unwieldy these proceedings have become, despite their reliance on costing techniques less refined than we would prefer to employ if we are to regulate mail rates effectively. Our recent decisions in these cases make plain our intent to rely heavily on micro-economic principles and the dictates of efficient pricing in any rate decision that will in the future be required from us. Orders 78–11–80 and 79–7–18; Orders 78–12–159 and 79–7–17. Other regulatory agencies are now struggling with varying degrees of success to answer the many difficult questions of theory and detail, such as the relevant time periods for consideration and the treatment of common and joint costs, which attend such inquiries. It would be difficult and costly for the Board to solve all such problems before the sunset of our jurisdiction over service mail rates. However, by devoting the Board's resources to maximizing competition, we minimize our need for complex proceedings. And, by moving toward ratesetting by the market within limits prescribed by the Board, we will ease the transition to an era where our rate-setting authority ends. In the process, we will provide both the carriers and the Postal Service with experience which will be valuable to both in establishing fair and efficient mail transportation transactions when the Board is no longer able to serve as "referee" to their conflicts.

Not only are existing mail ratemaking procedures administratively undesirable, but they also are antiquated when examined in the light of the purposes for which they were designed and the interests they purport to serve. Historically, the Board's service mail ratemaking function arose from three facts: (1) the early dependence of the air transport industry on postal revenues, as opposed to passenger and freight revenues, to finance its growth and development; (2) the relationship between postal contracts and route authority during this same period; and (3) the existence of incentives prior to the enactment of the Civil Aeronautics Act of 1938 which encouraged carriers to enter below cost bids for the carriage of mail. None of these conditions exist today.

A review of the history of postal rate regulation illustrates these developments. During the period 1918–1925, passenger traffic, which now covers most of the costs of mail carriage, was virtually nonexistent. Under such conditions, only a government-supported system could provide air mail service, and, until 1925, the Post Office itself provided the service.

In 1925 the Post Office Department first sought air mail bids from private contractors, pursuant to the Air Mail Act of 1925, ch. 128, 43 Stat. 805. However, because passenger traffic and commercial aircraft technology were still at early states of development, there was virtually no prospect of profitability for individual carriers without government subsidy. An amendment the following year initiated a subsidy system, Act of June 3, 1926, ch. 460, 44 Stat. 692, but low volume and high costs outweighed the subsidy benefit.

In 1928, further amendment of the Air Mail Act greatly increased the level of subsidy. Act of May 17, 1928, ch. 603, 45 Stat. 594. In addition, it substantially reduced the air mail postage rate (cutting it in half), thereby inducing a large increase in volume. Because this volume could be carried under available capacity there was virtually no additional cost to the carriers. More importantly, however, the 1928 amendment provided carriers with exclusive rights to carry mail over particular routes, thereby altering substantially the nature of postal ratemaking. In exchange for the monopoly routes, past contracts were

[3] 14 CFR § 302.300 *et seq.* Postal rates for intra-Alaska and intra-Hawaii services are generally determined through less complex informal procedures pursuant to Part 302. Other miscellaneous services, such as those provided by commuter air taxi operators, are directly contracted for by the U.S. Postal Service under the authority of the Postal Reorganization Act, 39 U.S.C. § 5402. This rulemaking does include both intra-Alaska and intra-Hawaii services.

[4] The Board instituted the investigation by Order 70–12–48 (December 8, 1970), and established final service mail rates in Order 78–11–80 (November 16, 1978).

cancelled. The rates contained in these contracts served as ceilings for maximum compensation, with the actual rates to be determined through negotiations with Post Office Department. However, the rapidly improving technological and economic picture made the existence of such a ceiling of little consequence.

In 1930, Congress enacted the Watres Act, Act of April 29, 1930, ch. 223, 46 Stat. 259, which again changed the subsidy and ratemaking components of air mail carriage. As before, compensation was to be determined by competitive bidding. The Post Office would continue to award route certificates, and would also fix rates on an annual basis after the conclusion of the initial contract period. The rates of compensation, however, were based on available capacity for mail carriage rather than the percentage of capacity actually utilized. This served to increase greatly the potential profitability of mail carriage operations. However, between 1930 and 1934 the focus of government regulation shifted from air mail carriage to developing an overall system or air transportation in the United States. The cost of this new program to expand passenger services was supported by the mail rates paid by the Post Office.

Concern over irregularities in the awarding of route certificates led to the Air Mail Act of 1934. Air Mail Act of 1934, ch. 466, 48 Stat. 933. This legislation once again provided for competitive bidding. After the initial contract period, however, the ratemaking authority was removed from the Post Office Department and placed in the Interstate Commerce Commission, which was given the authority to determine "fair and reasonable" levels of compensation.

This brought about numerous difficulties. Because contracts could be extended indefinitely, they became *de facto* route awards. It became advantageous for carriers to present absurdly low bids in order to obtain an initial contract, which could later be adjusted upward by the ICC.

In 1938, Congress sought to eliminate this system, which it felt had led to destructive competition caused by below cost pricing. The 1938 Civil Aeronautics Act ch. 601, 52 Stat. 973, transferred the air mail ratemaking function to the CAB. In addition, it eliminated the Post Office's ability to make *de facto* route awards through the contract system. The 1938 Act required the CAB to issue certificates based upon "the public convenience and necessity," and only such certificated carriers would be permitted to carry mail. It also authorized the CAB to fix the rates of mail carriage compensation. These rates were to take into account not only the cost of mail carriage, but also the need to "insure the performance of such service and . . . to maintain and continue the development of air transportation . . ."

With development of passenger markets following World War II, mail revenues steadily diminished in their importance to air carriers. While some airlines—notably the local service carriers—were thought to be still in need of subsidy, the airline industry generally was recognized to have attained sufficient maturity to be able to survive without direct government payments to individual carriers except on an *ad hoc* basis.

In 1953 the payment of subsidy based on carrier need was separated by administrative order from payments for the carriage of mail. Reorganization Plan No. 10 (1953). The Federal Aviation Act of 1958, 49 U.S.C. § 1376, amended section 406 to recognize this separation of functions. Service rates and subsidy rates have been determined separately by the CAB for over 25 years, and service mail rates are intended only to compensate the carriers for the carriage of mail.

Commercial air transportation today is reliant on passenger rather then mail revenues for its survival. The industry's mail service revenues account for less than two percent of operating revenues, *see* Appendix A, and the carriers no longer require non-competitive service mail rate protection to insure performance and continued development. We think that Board intervention in mail rates is unncessary to prevent below cost biddding on mail contracts or to otherwise insure either the viability of air carriers or the delivery of the mail. We recently concluded, after reviewing the record in the eight-year *Priority and Nonpriority Domestic Service Mail Rates Investigation*, that "the carriage of mail is . . . apparently a minor by-product of passenger service." Order 78–11–80. p. 23. Contemporary airline schedules are determined by passenger markets. Mail is generally carried in "unused space in combination aircraft bellies (which) is produced as the pure by-product of passenger service." Order 78–11–80, p. 16. Today, no trunk or local service carrier is dependent for its survival on the contribution made by mail revenues to its gross revenues. *See* Appendix A. Under these conditions, there is no basis for concern that a reduction of regulatory intervention in the determination of mail rates would lead to uneconomic bidding or inadequate mail service a fact which Congress recognized in the Airline Deregulation Act of 1978, when it provided that the Postal Service shall determine interstate and overseas service mail rates directly after January 1, 1985, either through negotiation or competitive bidding. See 49 U.S.C. 1551(b)(1)(D).

Our existing mail ratemaking process is an artifact of history which produces needless delay and expense and now presents a barrier to an effective transition to a deregulated mail contracting system. Moreover, it prevents the Postal Service—and the public—from benefiting from air carrier competition for postal business. Competition could produce lower rates, better timed schedules, increased mail volume, novel forms of service, and assured capacity. In prescribing domestic service mail rates last year, we observed: "We are more than a little troubled by the possibility that the rates we set here are too high from the standpoint of efficient pricing, given the extent of excess capacity in aircraft bellies apparent on this record. For the future, we intend to explore procedural and analytical methods which will facilitate the establishment of mail rates on a marginal cost basis, where reasonable, either through regulatory proceedings or through the operation of the competitive market place itself." Order 78–11–80, p. 23.

Not only do the rates set by the Board apparently fail to reflect accurately the incremental costs of mail carriage on flights scheduled to attract passengers and freight; they are also insufficiently flexible to reflect the cost of particular operations tailored to the needs of the Postal Service. The Postal Service has repeatedly stated that it wishes to deal with air carriers on a customer-supplier basis, [5] and has consistently asked Congress to expand its contracting authority. *See* testimony of the Postal Service in the Postal Modernization hearing. *supra* at 385–403; Postal Oversight hearings before the S. Comm. on Post Office and Civil Service, 93rd Cong., 1st Sess., Pt. 5 at 142–143 (1973).

The Postal Service has, moreover, testified that the carriage of mail at firm contract rates determined in advance would allow better planning by both the Postal Service and the airlines, and

[5] *See, e.g.*, Postal Modernization hearings before the S. Comm. on Post Office and Civil Service, 91st Cong., 1st & 2nd Sess., pt. 1, 385–403 (1969—70). Postmaster General Bount testified: "We believe that certificated carriers should be permitted to compete for mail traffic, just as they compete vigorously for freight, in a given market . . . We simply do not see why mail should be treated as a special category of traffic to be specifically deprived of the normal economic influences in the market place." *Id* at 391–392.

would greatly reduce the costs of uncertainty imposed by the present system. Postal oversight hearings, *supra* at 142. We are undertaking this proceeding in part to assit the Postal Service and the public, consistent with our statutory obligations, to obtain the benefits of price and service competition for the carriage of mail.

The fact that Congress in 1970 and 1973 rejected requests by the Postal Service for increased contracting authority does not, in our view, suggest that it is the intent of Congress that we continue to prescribe fixed mail rates under section 406. That section is broadly written and, like most ratemaking statutes, need not be construed in an inflexible manner which fails to take note of the changing context of the industries affected and the basic goals which the agency has been enjoined to foster. See, *Permian Basin Area Rate .Cases,* 390 U.S. 747 (1968). Moreover, Congress has directed in the Airline Deregulation Act that domestic service mail rates be established by either negotiation or competitive bidding beginning January 1, 1985. Thus Congress has determined that there is no reason in principal that fixed service mail rates must be set domestically by a regulatory body. Rather, Congress established a period of transition leading to the determination of these rates by competitive bidding or negotiation.

In addition, Congress has endorsed Board efforts to achieve a transition to a more competitive market place in aviation generally, H. R. Rep. No. 95–1779, 95th Cong., 2d Sess. 56 (1978) Conference report accompanying the Airline Deregulation Act of 1978, including Board policies favoring multiple permissive entry and the use of a presumtively suspend-free zone for passenger fares. § 1002(d)(4) of the Federal Aviation Act, as amended, 49 U.S.C. § 148(d)(4). The options we are considering here represent similar transitional initiatives intended to minimize the disruption to organized processes which might result from the abrupt termination of a regulatory regime. Finally, it should be noted that the Board opposed past efforts of the Postal Service to persuade Congress to increase its contracting authority. *See* testimony of the C.A.B., Postal Modernization hearings, *supra* at 411–413. Congressional action consistent with the Board's position on a matter by law subject to the Board's jurisdiction can hardly serve to predict what the Congressional attitude might be on the same question if the Board's position were reversed.

At the same time, we do not perceive the existing statutory scheme for the establishment of mail rates to be incompatible with the zone concept which we are proposing here. Since the mail ratemaking sections of section 406 were divorced from the section 406 subsidy function by Reorganization Plan No. 10 and the 1958 amendment of section 406, 49 U.S.C. § 1376(c), those sections have operated in the typical fashion of statutes governing public utility ratemaking activities. Section 406 directs the Board "to fix and determine from time to time, after notice and hearing, the fair and reasonable rates of compensation for the transportation of mail by aircraft . . ." Using virtually the same terms, section 5(a) of the Natural Gas Act of 1938, 15 U.S.C. § 717 *et seq.,* directed the Federal Power Commission to "determine the just and reasonable rate" to be observed in the interstate sale of natural gas. In *FPC* v. *Natural Gas Pipeline Co.,* 315 U.S 575 (1942), the Supreme Court "emphasized that courts are without authority to set aside any rate adopted by the Commission which is within a zone of reasonableness." *In Re Permian Basin Area Rate Cases,* 390 U.S. 747, 796 (1968). The Court defined the "lowest reasonable rate"as "one which is not confiscatory in the constitutional sense." *Id.* at 585. Then, taking as its premise the existence of a"a zone of reasonableness within which the Commission is free to fix a rate varying in amount and higher than a confiscatory rate, see *Banton* v. *Belt Line Ry. Corp.* 268 U.S. 413, 422, 423; *Columbia Gas Co.* v. *Commission,* 292 U.S. 398, 414; *Denver Stockyard Co.* v. *United States, supra,* 483, "it found that the Commission was "free under § 5 to decrease any rate which is not the 'lowest reasonable rate'." *Id.* at 585–86. Within the zone of reasonableness, the Commission may "employ price functionally in order to achieve relevant regulatory purposes." *Permian Basin Area Rate Cases, supra* at 796. Permian Basin summarized these standards by stating that a court reviewing a Commission rulemaking order is limited to determining whether the order (1) exceeds the Commission's regulatory authority, (2) is supported by substantial evidence, and (3) demonstrates that the Commission has given "reasoned consideration" to whether the rate structure will maintain financial integrity, attract necessary capital, compensate investors fairly, and protect public interests. *Id.* at 791–792.

We tentatively conclude that a regulatory agency operating under a ratemaking statute such as § 5(a) of the Natural Gas Act of 1938, as we do in determining service mail rates, is free to employ a zone of reasonableness, instead of determining fixed rates, if it meets these standards. Our use of a zone of reasonableness seeks to accomplish regulatory purposes of importance to our statutory responsibilities in airmail transportation: reduction of administration expense and delay, achievement of a smooth transition to a deregulated mail ratemaking system, and assistance of the Postal Service in improving the efficiency of airmial transportation. The boundaries of each zone are based on evidence accumulated in our recently completed domestic and international service mail rates investigations. In each case, the bottom of the zone is not confiscatory, because carriers will be obligated to transport mail only at the highest rate within the zone, and we have found the ceiling rate for each zone, after lengthy proceedings, to be fair and reasonable. Moreover, we find support for our proposal in our general rulemaking authority under section 204 of the Act. As the Supreme Court has recently held in a case involving similar statutory provisions under the Communications Act:

> * * * It is now well established that this general rulemaking authority supplies a statutory basis for the Commission to enact regulations codifying its view of the public interest standard, so long as that view is based on consideration of permissible factors and is otherwise reasonable. *F.C.C.* v. *National Citizens Committee for Broadcasting.* 436 U.S. 775, 793 (1978).

Next we turn to the question whether the Postal Service has the legal authority to contract with carriers for the carriage of mail at rates within a Board-defined zone. We have tentatively concluded that the Postal Service possesses the necessary authority, after analysis of two sections of the Postal Reorganization Act, 39 U.S.C. § 101 *et seq.,* which bear on this question.

An initial question is raised by 39 U.S.C. § 101(f), which states in part that it shall be the policy of the Postal Service, to "make a fair and equitable division of mail business to carriers providing similar modes of transportation to the Postal Service." Does this require the Postal Service to give all carriers on a route equal amounts of mail business, irrespective of differences in the price at which the carriers are willing to transport mail? We think not, as long as the carriers concerned are all given a fair opportunity to obtain postal contracts. In our tentative view, a division of mail

business on the basis of price would be "fair and equitable" within the meaning of this section if all "carriers providing similar modes of transportation" are provided an opportunity to compete for business on the same basis. A Congressional intent to construe § 101(f) in this way is evidenced by the fact that Congress left this provision intact in enacting the Airline Deregulation Act, thus indicating that it is to be construed in a manner which is consistent with mail contracting based on competitive bidding. 2A C. Sands, Sutherland Statutory Construction § 51.02 (4th ed. 1973). Indeed, because of the inefficiency which would result from a policy of equal division, a contrary interpretation of § 101(f) would be inconsistent with the additional directive in § 101(f) that "In selecting modes of transportation, the Postal Service shall give highest consideration to the prompt and economically delivery of all mail." In our tentative view, § 101(f) cannot be read to bar the Postal Service from contracting for airmail carriage at rates within a Board-established zone.

A second issue arises from 39 U.S.C. §§ 5401–02, which on its face, may appear to place an absolute limit on the contracting authority of the Postal Service.[6] Our tentative reading of this provision is that it instead represents an exception to the general rule that Postal Service contracting activities must take place at rates set by the Board. Section 405 of the Federal Aviation Act restricts the actions the Postmaster General may take in arranging airmail transportation to actions which are "not inconsistent with the provisions of this Act, or any order, rule, or regulation made by the Board thereunder. . . " Since the Board has historically set mail rates at uniform fixed levels by order, the Postal Service has been prohibited by section 405 from entering into contracts at other prices. In order to do so, it was necessary for the Postal Service to obtain legislation—as in the case of 39 U.S.C. 540102—or Board exemption.[7] Wih our adoption of a rule establishing a postal rate zone, however, the Postal Service would be able to contract for mail carriage at any rate within the zone consistent with section 405, and there will be no need for an independent statutory basis for contracting with certificated carriers, as is currently provided by 39 U.S. § 5402 on a limited basis.

The fact that Congress did not alter this §§ 5401–02 when it mandated an end in Board ratemaking after 1985 in the Airline Deregulation Act supports our conclusion. Surely, if USPS may contract directly for mail carriage after 1985 despite these provisions, it may do so under Board supervision. These provisions should, therefore, be construed as limiting the extent to which the Postal Service can contract without Board authority, rather than as imposing an absolute limit, since an absolute limit would render the provisions of the ADA unworkable.[8]

Foreign Service Mail Rates

The considerations which have led us to examine the possibility of reforming the procedures by which we determine interstate and overseas service mail rates apply equally to the procedures by which we prescribe foreign service mail rates. First, both domestic and international ratemaking investigations are governed by the same procedural rules (14 CFR 300.300 *et seq.*) and involve delays of similar magnitude. The *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation,* Docket 26487, completed last year, occupied the Board for almost five years.[9] In addition, the regulation of domestic and international service mail rates developed for the same historical reasons. The changes in air transportation since 1938 which have led us to question the continued justification for the Board's mail ratemaking posture domestically have similarly cast doubt upon the continued validity of the historical premises of the Board's prescription of fixed foreign service mail rates. Finally, the argument that competition will produce price and service benefits applies internationally as well as domestically.

The fact that the Fair Competitive Practices Act of 1974 (FCPA) [10] must be considered in the determination of international but not domestic mail rates does not, in our tentative view, preclude the use of a zone for international rates. In a recent analysis of the effect of the FCPA on our ratemaking function, we concluded that while this Act introduces three new elements into international mail rate investigations, "the FCPA should be construed as leaving the Board with the discretion, if not the obligation, to reject . . . ratemaking elements to the extent that such elements would produce international mail rates above the carrier's cost as reasonably determined by the Board under the traditional 'fair and reasonable' standard." Order 78–12–159, p. 10. The three elements which the FCPA requires us to consider in addition to information about the U.S. carriers' costs—the rates of the Universal Postal Union, the ratemaking elements employed by the UPU, and any competitive disadvantage to U.S. carriers caused by the receipt of UPU rates by foreign air carriers—can be and have been taken into consideration in the establishment of a zone or zones for foreign service mail rates separate from the zone or zones for interstate and overseas rates.

Description of the Procedure Under Consideration

The procedural change under consideration entails our establishing for each class of mail a zone defined by a maximum rate and a minimum rate. Within these limits all service mail rates would be deemed to be fair and reasonable within the meaning of section 406 of the Federal Aviation Act. Since an important objective of the replacement of fixed rates with a zone of rates is the realization of rates reflecting the costs of providing the services involved, air carriers would be free to contract with the Postal Service for the carriage of mail at any rate

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[6] Section 5401(b) states: "Except as otherwise provided in section 5402 of this title, the Postal Service may make such rules, regulations, and orders consistent with sections 1301–1642 of Title 49, or any order, rule, or regulation made by the Civil Aeronautics Board thereunder, as may be necessary" for the transportation of mail by aircraft. Section 5402 permits the Postal Service to contract with air taxi operators where service by certificated carriers is determined to be inadequate; with any air carrier where certificated service in nonexistent; and with any certificated carrier "for the transportation of at least 750 pounds of mail per flight, and no more than 10 percent of the domestic mail transported under any such contract or 5 percent, based on weight, of the international mail transported under any such contract shall consist of letter mail."

[7] Prior to the passage of § 5402, for example, the Board used its exemption power to permit air taxis to provide airmail service by contract where certificated service was unavailable.

[8] It is a basic principle of statutory construction that statutes *in pari materia* are to be construed harmoniously together:

> In terms of legislative intent, it is assumed that whenever the legislature enacts a provision it has in mind previous statutes relating to the same subject matter, wherefore it is held that in the absence of any express repeal or amendment therein, the new provision was enacted in accord with the legislative policy embodied in those prior statutes, and they all should be construed together.
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> * * * *
>
> Statutes *in pari materia,* although in apparent conflict, are so far as reasonably possible construed to be in harmony with each other. But if there is an irreconcilable conflict between the new provision and the prior statutes relating to the same subject matter, the new provision will control as it is the later expression of the legislature. 2A C. Sands, Sutherland Statutory Construction, § 51.02 (4th ed. 1973) [Footnotes omitted].

[9] The Board opened the investigation on March 8, 1974, by Order 74–3–40, and established final service mail rates on December 21, 1978, in Order 78–12–159.

[10] P.L. 93–623, 88 Stat. 2103. Section 4 of the FCPA added subsections (h)(2) and (h)(3) to section 406 of the Federal Aviation Act.

within the applicable zone. Such contracts need not be filed with the Board or embodied in tariffs.[11] In markets served by more than one carrier, we expect competition to be an important factor in determining the rates at which mail is transported.

Rates outside each zone should be subject to closer scrutiny and possible challenge to determine if the cost of providing mail service under particular circumstances is indeed above or below zone limits. In order to facilitate such a review, by both interested parties and by the Board, the proposed rule requires carriers to file with the Board all contracts for rates outside the zone. The filing and review procedure for such contracts tentatively is similar to that currently embodied in section 5402 of the Postal Reorganization Act, which provides that mail service contracts entered into between the Postmaster General and certificated air carriers under that section be filed with the Board not later than 90 days before the contract effective date, and that they shall become effective automatically "unless the Board shall determine otherwise" under the public interest criteria specified in section 102 of the Federal Aviation Act, not later than 10 days prior to the effective date. This is a relatively simple procedure which reconciles the need of the Postal Service for reasonable dispatch with the opportunity for the Board to exercise its underlying responsibilities under the Act. Of course, we will consider modifications to this procedure dictated by the expanded scope of the contracting freedom proposed by the new rule, such as changes in the period for advance filing. The criteria for Board review, with or without the filing of objections by interested parties, are those embodied in the "fair and reasonable" standard of section 406, and the policy considerations set forth in section 102 of the Act. Comments proposing that more specific, or additional, criteria be set forth in the rule should provide a detailed justification.

We tentatively intend to maintain the classification of types of mail service upon which current rates are based. For each class of mail, we propose to define the upper limit as the rate applicable to each class on the effective date of the rule.[12] We propose to fix the lower limit at slightly above the average variable cost of service, by entity and type of mail. This benchmark represents the point at which a rate becomes profitable and is accordingly a widely discussed benchmark of predatory pricing. See, *e.g.*, P. Areeda & D. Turner, Predatory Pricing and Related Practices Under Section 2 of the Sherman Act, 88 Harv. L. Rev. 697 (1975). These boundaries are derived from our consideration of the costs of mail service in our most recent rate investigations. In those investigations we determined the rates we propose to use as ceiling rates to be fair and reasonable in all markets, including single carrier markets. Thus we see no reason for concern that an air carrier in a monopoly market might harm the public through the exercise of market power in mail transportation. The calculations used to determine tentatively the lower limits may be found in Appendix B.

At the same time, we have sought to avoid the possibility that an air carrier might be required to transport mail at an uneconomic rate. The proposed rule provides that, in the event the Postmaster General requires an air carrier to carry mail, the rate of compensation shall be no lower than the ceiling rate of the applicable zone. Should the parties fail to reach agreement on a price at or above the ceiling rate, we are prepared to use our powers under Section 406 of the Act. We would expect such instances to be rare, however, and we will deal with them, if they arise, on a case-by-case basis.

Our power to make this determination derives from the same section of the Federal Aviation Act, 401(1), 49 U.S.C. § 1371(1), which gives the Postmaster General the authority to require the transportation of mail. That section provides that an air carrier required to carry the mail "shall be entitled to receive reasonable compensation therefor as hereinafter provided." While in some markets the applicable zone floor may in fact exceed the economic costs of mail carriage, we do not assume that this is true for all markets. To avoid the possibility that an air carrier might be offered only the floor rate while being required to transport mail in a market in which the costs exceeded the lower zone limit, we have tentatively determined that any rate of compensation which is below the applicable ceiling rate is unreasonable when offered to a carrier required to transport mail under section 401(1). This provision should work no hardship on the Postal Service, since in any non-monopoly market in which mail transportation costs are under the ceiling, the operation of the competitive market should permit the Postal Service to contract for mail carriage at a below-ceiling rate without reliance on section 401(*1*).

We propose to review and revise the limits of each zone periodically, using the updating techniques developed in the *Priority and Nonpriority Service Mail Rates Investigation*, Order 78–11–80, pp. 25–32, but relying procedurally on notice and comment rulemaking. Also, interested persons could petition us at any time to amend the existing rule. We are prepared to deem reasonable all rates within the zones because we cannot now conceive of persuasive grounds to disapprove a rate under section 406, agreed to by willing buyers and sellers, which falls between a reasonable calculation of average variable costs and fully allocated costs. We recognize that setting up the zones of reasonableness as presumptions, as we did in PS–80, would provide additional procedural opportunities to competing carriers to challenge low rates.[13] PS–80, however, did not involve willing buyers and sellers, and we think challenges by competitors to non-predatory low rates are properly discouraged. Parties who disagree with this tentative conclusion should furnish plausible hypothetical examples which demonstrate that rates within the zones we are setting could be unreasonable.

We think our use of notice and comment rulemaking procedure to establish zone boundaries now and in the future is both appropriate as a matter of policy and justified under the notice and hearing requirement of section 406(a). We are developing and propose to apply a procedure not to adjudicate disputed facts in particular cases but rather to promulgate policy-type standards of industry-wide application. For this reason we think that it makes more sense to employ notice and comment rulemaking procedure than quasi-judicial procedure. The question whether notice and comment rulemaking procedure satisfies a notice and hearing ratemaking requirement under these circumstances has been repeatedly answered in the affirmative on judicial review. *United*

[11] Part 291 of the Board's Economic Regulations, 14 CFR § 291.31, currently exempts carriers from filing tariffs for "domestic cargo transportation," which includes mail, except within Alaska and Hawaii. The proposed rule would make it clear, by exemption, that tariffs need not be filed for any mail services, either within or without the zones.

[12] A special case may be presented by intra-Alaska service regarding which rates have traditionally been established on a carrier-by-carrier basis. We tentatively propose to consider as the upper limit the rate applicable to each carrier, but invite comment on alternative approaches to the establishment of an upper limit or limits in this ratemaking entity.

[13] Carriers would be unlikely to challenge rates as too high since the more efficacious response in such a situation is to under-bid the offending carrier.

States v. *Florida East Coast R. Co.*, 410 U.S. 224 (1973); *Phillips Petroleum Co.* v. *FPC*, 475 F. 2d 842 (10th Cir. 1973), cert. denied 414 U.S. 1146 (1974); *American Public Gas Association* v. *FPC*, 567 F. 2d 1016, 1064–67 (D.C. Cir. 1977); *Bell Telephone Co. of Pennsylvania* v. *FCC*, 503 F. 2d 1250 (3d Cir. 1974), cert. denied 422 U.S. 1026 (1975).

The Board requests comments on all issues raised by this notice of proposed rulemaking. It is incumbent on any party asserting that the calculations by which the zone limits have been determined are deficient to supply the alternative procedures and calculations which it would advocate be used if the Board finalizes the present type of proposal.

Accordingly, it is proposed that the following changes be made to chapter II, Title 14, Code of Federal Regulations:

1. A new Part 233 would be added to read as follow:

PART 233—TRANSPORTATION OF MAIL AND ESTABLISHMENT OF MAIL RATES

Sec.

233.1 Applicability and purpose.
233.2 Establishment of service mail rate classes and zones.
233.3 Exemption from requirements to file tariffs.
233.4 Minimum rate of compensation for carriers required to transport mail.
233.5 Domestic sack mail zone.
233.6 Domestic containerized mail zone.
233.7 International mail zone.

Authority: Secs. 204, 401, 403, 405, and 406 of the Federal Aviation act, as amended; 72 stat. 743, 754, 758, 760, 763, as amended; 49 U.S.C. 1324, 1371, 1373, 1375, 1376.

233.1 Applicability and purpose.

This part applies to air carriers engaging in the carriage of mail in interstate, overseas or foreign air transportation, including carriage wholly within Alaska or Hawaii, as defined in sections 101(24) and 105(b)(1) of the Act, 49 U.S.C. § 1301(24) and § 1305(b)(1). Its purpose is to increase flexibility in the exercise of the Board's service mail ratemaking functions under sections 401(*l*), 405 and 406 of the Act, 49 U.S.C. § 1371(*l*), § 1375 and § 1376, by establishing a zone of service rates, limited by a maximum and a minimum rate. Within this zone carriers and the Postal Service may contract for rates without the need for prior Board notification or approval.

233.2 Establishment of service mail rate classes and zones.

(a) The Board shall establish classes of mail where necessary and shall fix and determine for each class of mail a zone of service rates defined by a maximum rate and a minimum rate.

(b) All rates within each zone, including the zone limits, are deemed to be fair and reasonable.

(c) Mail service contracts at rates within the applicable zone are not required to be filed with the Board.

(d) An air carrier intending to transport mail under contract at a rate outside an applicable zone shall file the contract with the Board, including all applicable terms and conditions of service, at least 90 days before the transportation is to begin. The contract shall become effective unless the Board, under sections 102 and 406 of the Act, decides otherwise not later than 10 days prior to the effective date.

(e) Petitions to change the definitions of the class or zone shall be filed according to Subpart a of Part 302 of this chapter.

§ 233.3 Exemption from requirements to file tariffs.

Air carriers providing mail service under contract are exempted from section 403 of the Act and the Board's regulations thereunder to the extent that a requirement to file tariffs with the Board would be imposed with regard to such service.

§ 233.4 Minimum rate of compensation for carriers required to transport mail.

No air carrier shall be required by the Postmaster General to transport mail at a rate lower than the upper limit of the zone or zones applicable to the mail to be transported.

§ 233.5 Domestic sack mail zone.

The zones of reasonableness for sack mail in interstate and overseas transportation (including carriage wholly within Alaska or Hawaii) shall have as their upper limits the rates fixed periodically by applicable Board order, and, as their lower limits, levels equivalent to 50 percent of such rates.

§ 233.6 Domestic containerized mail zone.

The zones of reasonableness for containerized mail in interstate and overseas transportation (including carriage wholly within Alaska or Hawaii) shall have as their upper limits the rates fixed periodically by applicable Board order, and, as their lower limits, levels equivalent 20 percent of such rates.

§ 233.7 International Mail Zone.

The zones of reasonableness for foreign mail shall have as their upper limits the reates fixed periodically by applicable Board order; and, as their lower limits, levels equivalent to 30 percent of such rates.

PART 302 [Reserved]

2. Subpart C of Part 302, Code of Federal Regulations, Rules Applicable to Mail Rate Proceedings, 14 CFR § 302.300—321, would be revoked and reserved.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Domestic Operations

Percentage of Mail Revenues to Total Revenues

[Year Ended Mar. 31, 1978]

	Mail revenues	Total operating revenues	Percent mail to total revenues
	(In millions of dollars)		
Trunk Carriers and Flying Tiger: [1]			
American	28,211	2,172,583	1.3
Braniff	13,042	639,721	2.0
Continental	7,805	669,735	1.2
Delta	31,065	1,923,037	1.6
Eastern	29,533	1,780,877	1.7
Flying Tiger	503	118,830	0.4
National	5,784	519,168	1.1
Northwest	19,330	795,714	2.4
Trans World	26,257	1,567,849	1.7
United	37,385	3,040,764	1.2
Western	11,003	680,840	1.6
Total	209,918	13,909,118	1.5
Local Service and Regional Carriers:			
Allegheny	17,722	515,425	3.4
Frontier	4,422	247,037	1.8
Hughes	2,667	265,697	1.0
North Central	778	238,847	0.3
Ozark	4,102	200,158	2.0
Piedmont	2,200	118,478	1.2
Southern	2,792	164,873	1.7
Texas Int'l	1,590	42,225	3.8
Air Midwest	6	4,387	0.1
Air New England	106	18,605	0.6
Total	36,385	1,885,732	1.9
Grand Total	247,303	15,794,850	1.6

[1] Excludes Pan American.

SOURCE: Air Carrier Financial Statistics March 1978, Expedited Issue.

Summary of Costs Assigned to Mail—Calendar Year 1974

[In millions of dollars]

Domestic	Sack	PAL	Containers	
			Standard	Daylight
Total Economic Costs [1]	134,664	3,070	1,339	12,602
Labor and Support Exp.[2]	54,788	1,467	220	2,090
Ratio of Labor and Support Expense to Total Economic Costs	40.68%	47.79%	16.43%	16.58%

[1] Order 78-11-80, November 16, 1978, Appendix E, page 2.
[2] Order 78-11-80, November 16, 1978, Appendix E, page 5.

Summary of Costs Assigned to Mail—Calendar Year 1974

[In millions of dollars]

	Priority and MOM	SAM
Transatlantic:		
Total Economic Costs [1]	25,305	16,119
Noncapacity Costs [1]	5,074	4,623
Ratio of Noncapacity Costs to Total Economic Costs	20.05%	28.68%
Transpacific:		
Total Economic Costs [2]	23,977	20,317
Noncapacity Costs [2]	3,908	4,944
Ratio	16.30%	24.33%
Latin American:		
Total Economic Costs [3]	4,162	668
Noncapacity Costs [3]	1,037	180
Ratio	24.92%	26.95%

[1] Order 79-7-17, July 3, 1979, Appendix D-1.
[2] Order 79-7-17, July 3, 1979, Appendix D-2.
[3] Order 79-7-17, July 3, 1979, Appendix D-3.

[FR Doc. 79-27944 Filed 9-6-79; 8:45 am]

BILLING CODE 6320-01-M

[14 CFR Parts 207, 208, 212, and 214]

[EDR-243C; Docket 25563, Dated August 31, 1979]

Charter Contracts by U.S. and Foreign Air Carriers; Termination of Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking proceeding.

SUMMARY: The Civil Aeronautics Board is terminating a rulemaking that would have prohibited both U.S. and foreign air carriers from entering into charter contracts except in accordance with currently effective tariffs on file with the Board. The basis of the rulemaking no longer exists, since charter tariffs have been eliminated.

DATED: August 31, 1979.

FOR FURTHER INFORMATION CONTRACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: By EDR-243, 38 FR 10462, April 27, 1973, the Board proposed to prohibit U.S. and foreign air carriers from entering into charter contracts that varied from their currently effective tariffs on file with the Board, and from later filing tariffs that would have the effect of increasing the charter rates above those specified in such contracts. Recently, however, the Board exempted U.S. and foreign air carriers from having to file tariffs for their charter flights. See ER-1125, 44 FR 33056, June 8, 1979. The elimination of charter tariffs removes the basis for the proposal.

Accordingly, the Civil Aeronautics Board is terminating this rulemaking proceeding.

(Sec. 204, 401, 402, 407, 416, and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, 757, 766, 771, 788, 49 U.S.C. 1324, 1371, 1372, 1377, 1386, 1481)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27943 Filed 9-6-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 271 and 274]

[Docket No. RM79-76]

High Cost Natural Gas Produced From Tight Formations; Proposed Rulemaking and Public Hearings

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking and public hearings

SUMMARY: The Commission is considering promulgating a regulation regarding non-associated natural gas produced from tight formations in order to promote production of such gas through use of incentive pricing. The proposed regulation establishes which gas will qualify for the incentive prices, the price to be charged for such gas, and the procedures for qualifying gas for the incentive price. The Commission intends to hold public hearings on this proposed rule in Washington, D.C. and Denver, Colorado.

DATES: Written comments on Docket No. RM79-76 to be received by October 15, 1979. Public hearings September 24, 1979 in Washington, D.C. and September 27, 1979 in Denver, Colorado at locations to be announced. Requests to participate in public hearings to be received in the Office of the Secretary no later than 7 days prior to the hearing.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Philip Yates, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4308-D, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8078.

OR

Wayne Thompson, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, Room 6106-A, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-4562.

OR

Victor Zabel, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, Room 6100-C, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-4568.

Issued: August 29, 1979.

I. Background

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations in order to implement sections 107(b) and 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 301, *et seq.*, (NGPA) as they relate to non-associated natural gas produced from tight formations. Sections 107(b) and 107(c)(5) of the NGPA allow the Commission to set "reasonable" incentive prices for natural gas "produced under such . . . conditions as the Commission determines to present extraordinary risks or costs."

"Tight formation" gas is non-associated natural gas produced from geological formations of low permeability. In order to produce natural gas in economical quantities from such formations, certain enhanced production techniques must be applied in order to create fractures to enhance the flow of gas. At present, only hydraulic fracturing and explosive fracturing have been proven to be commercially practical, although other techniques may be developed in the future.

A Notice of Inquiry was issued on June 13, 1979, in Docket No. RM79–44, requesting comments on sections 107(b) and 107(c)(5). Of the many comments that were received, only a few mentioned natural gas produced from tight formations. The Commission anticipates that many more comments on tight formations will be elicited by this notice of proposed rulemaking. However, Congress has already recognized that gas production from tight formations entails "extraordinary" costs within the meaning of section 107(c)(5). See Joint Explanatory Statement of the Committee on Conference, H.R. Rep. No. 95–1752, 95th Cong., 2d. Sess. 87 (1978). In addition, the President indicated in his recently announced energy program that production from tight formations is essential to meet the nation's energy needs. The Secretary of Energy, in a letter to the Commission dated July 21, 1979, also emphasized the need to expeditiously promulgate rules providing a reasonable incentive price for gas produced from tight formations. This regulation is now being proposed in response to that need.

II. Summary of the Proposed Rule

The regulation here proposed establishes which natural gas will qualify under section 107 because produced from a tight formation, which procedures the Commission will follow in determining whether a formation is a tight formation, the filing requirements for seeking a determination under Part 274 that gas is produced from a well which produces tight formation gas and the incentive price to be charged for such gas.

The Commission proposes to establish which natural gas produced from tight formations will qualify for the section 107 incentive price by specifying what formations or portions of formations should qualify as tight formations and establishing the criteria under which a particular well drilled into such formations will qualify for the section 107 incentive price.

The Commission is proposing to define tight formation gas based on the known or estimated characteristics of the particular formation or portion thereof from which the gas is produced and on certain easily ascertainable characteristics for the well rather than upon the well's specific producing characteristics. The Commission proposes to adopt this methodology because it would be difficult to define tight formation gas by exclusive reference to specific producing characteristics of a well and the burdens of such a requirement might operate to discourage drilling into tight formations. Were a production test to be adopted, testing would be required for each well and, because it is difficult to estimate *in situ* gas permeability based on core analysis, extensive and expensive pressure build-up analysis would be required to determine each well's true production characteristics.

Although many geological formations have been considered to be tight formations, most geologists agree that a majority of the geological indicia, such as permeability, porosity, net pay thickness, etc., vary widely from formation to formation and from area to area within the same formation. However, tight formations are generally characterized by low gas permeability, resulting in low rates of production which can be substantially increased through the use of enhanced recovery techniques such as fracturing. Therefore, the commission is proposing to consider as tight formations those formations or portions thereof which have low production rates due to low gas permeability and for which an appropriate tight formation enhanced recovery technique is available.

An appropriate technique is one which is expected to increase substantially the rate of natural gas production which could be achieved without use of the technique. Such a technique must also be substantially more expensive than those techniques used for a typical well which does not produce from a tight formation. Because different formations may require different techniques, the Commission proposes to determine the appropriate techniques for each particular designated tight formation. The Commission has tentatively identified certain specific tight formations in the proposed rule, but has not specified appropriate techniques for those tight formations. However, in addition to seeking comments on the tight formations listed in the proposed rule the Commission is also soliciting comments as to which techniques would be appropriate for increasing gas production from those formations.

The Commission seeks to establish an incentive price that will lead to the development of areas with low deliverability that would not be expected to be developed in the absence of an incentive price because of the high cost of production. In addition to proposing certain areas as tight formations the Commission is also proposing four general guidelines for qualifying an area as a "tight formation": (1) The formation or portion thereof must have an estimated average *in situ* gas permeability, throughout the pay section, of .03 millidarcies [1] or less; (2) A well drilled into the formation or portion thereof must be *expected* to produce, with no production stimulation, an average of 200 Mcf or less per day, (3) Production from such a well must be *expected* to be increased substantially after the completion of an appropriate technique; and (4) No field rules for development of the formation or portion thereof can have been established by or requested of a jurisdictional agency.

The Commission Staff has preliminarily identified the following formations all or portions of which may qualify under the guidelines:

Basin	Formation
Greater Green River	Fort Union. Almond A, or B, Erickson, Rock Springs/Blair, other Mesa Verde.
Piceance	Fort Union, Corcoran-Cozette, other Mesa Verde.
Uinta	Wasatch, Barren, Coaly, Castlegate.
Northern Great Plains and Williston.	Judith River, Eagle, Carlisle, Greenhorn/Frontier.
Big Horn	Mesa Verde.
Douglas Creek Arch	Mancos, Dakota.
Sonora	Canyon.
Cotton Valley Sweet	Cotton Valley and Gilmer Lime.
Denver	Niobrara, Sussex, Dakota.
Ouachita	Stanley.
San Juan	Dakota.
Wind River	Frontier, Muddy.
East Texas	Bossier, Cotton Valley Sandstone, Haynesville, Smackover.

The list is neither exhaustive nor conclusive as to eligibility. It merely

[1] A "darcy" is a unit for measuring permeability.

reflects what the Staff currently believes may be examples of qualifying tight formations. The Commission is soliciting comments on the listed formations as well as the guidelines for identifying such formations. Those comments which suggest that a particular area not be included in the list must indicate which of the guidelines it fails to meet and support such allegations with the information required under § 271.705. Those comments which recommend that a listed formation or additional formations be included in the list must establish that the formation meets the guidelines based on the information required under § 271.705.

Section 271.705 requires that a recommendation include geographical and geological descriptions of the formation or portion of the formation which is recommended for classification as a tight formation; geological and engineering data to support the recommendation and the source of that data; the number and location of all wells which produce or have produced natural gas from the recommended tight formation; the types and extent of appropriate techniques which are expected to be necessary to increase production from a well producing from the recommended tight formation and the expenditures necessary for employing those techniques; the degree of increase in production to be expected from use of such techniques and engineering and geological data to support that estimate; information indicating that no field rules for development of the formation or portion thereof have been established by or requested of a jurisdictional agency; and any other information which the applicant deems relevant.

The Commission will look to the comments submitted on the proposed list of tight formations for evidence as to whether the formations currently proposed meet the guidelines for defining a tight formation set forth in § 271.703(b)(5) and will decide whether to include a formation in the list issued in the final rule based on those comments. The Commission also intends to provide an opportunity for comment on any formations which it may add to the list. The Commission anticipates that many recommendations will be submitted by jurisdictioinal agencies. Because it recognizes that such agencies are especially familiar with the geological and production characteristics of particular formations, the Commission will solicit and give special attention to any recommendations or comments from those agencies.

Once the Commission has determined that the area into which a well has been drilled qualifies as a tight formation, the well must meet three additional criteria before gas produced from it may qualify for the incentive price: (1) The well must have been spudded on or after the date upon which this proposed rule was voted on by the Commission, i.e., August 17, 1979; (2) The well must qualify under Subpart C of Part 271 as a new, onshore production well; and (3) The well must have been subject to a technique which the Commission has identified as a technique which requires extraordinary expenditures and which must be employed in order to increase substantially the production from that tight formation.

The Commission is proposing these three criteria in order to encourage additional gas production while avoiding the drilling of unnecessary wells. Thus, no well drilled into a reservoir which can be effectively and efficiently drained by an old well can qualify as a tight formation well under this proposed rule. In addition, the Commission believes that use of an appropriate technique should be a condition precedent for qualifying a well as a tight formation well, because the incentive price is intended to encourage producers to undertake the costs of employing such techniques.

The proposed regulation is intended to provide price certainty based on reasonable geological *expectations*. The designation of a tight formation will be based on geological evaluations founded upon the best information available. Once the Commission has designated an area as a tight formation, any well completed in the formation will qualify for the incentive price so long as the well itself meets the three additional criteria. The actual production figures of a well would be irrelevant. If fracturing does not substantially increase a qualifying well's production, that fact would also be irrelevant so long as the technique used has been designated by the Commission as an appropriate technique for the tight formation.

In addition to designating what gas will qualify under section 107(c)(5) of the NGPA, the Commission is also authorized under section 107(b) to set a "reasonable" incentive price for section 107(c)(5) gas. The Secretary of Energy has requested that the maximum lawful price for tight formation gas be related to the price of "deregulated oil" because the increased natural gas production will compete with refined oil products. The Commission believes that price comparability requires that the wellhead price for tight formation gas be referenced to the price of crude oil rather than residual fuel oil because both this gas and crude oil are subject to additional costs of rough equivalence before they are delivered to the end user. However, the Commission is seeking comments on whether the price of tight formation gas should be indexed to the price of crude oil or residual fuel oil.

The world price of Saudi Arabian benchmark crude oil is $18.00 a barrel,[2] which is equivalent to $3.1035 per MMBtu.[3] The Commission proposes to set the incentive price for section 107(c)(5) tight formation gas at 150 percent of the section 103 price ($2.079 [4] per MMBtu × 150% = 3.1185). Because the section 103 price includes an adjustment for inflation, the maximum lawful price for section 107(c)(5) tight formation gas will in all likelihood escalate over time. However, such escalations will be keyed to the monthly inflation adjustment factor prescribed by the NGPA rather than to increases in the world price for oil. The Commission believes that this pricing mechanism will provide sufficient price predictability and will keep the price for section 107(c)(5) tight formation gas even with inflation.

The Commission specifically invites comment on the issue of deregulation of section 107(c)(5) tight formation gas. The definition for tight formation wells incorporates the criteria for section 103 wells; thus tight formation wells are also section 103 wells. Under section 121 of the NGPA certain section 103 wells become deregulated in 1985, others in 1987. Section 101(b)(5) of the NGPA provides that, if gas qualifies for a maximum lawful price under more than one provision, "the provision which could result in the highest price shall be applicable." The Commission is soliciting comments as to whether section 101(b)(5) requires that tight formation wells become deregulated either in 1985 or 1987 if the *deregulated* price for section 103 gas will be higher than the regulated price for tight formation gas.

III. Public Procedure

A. Written Comments

Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825

[2] This figure is based upon the latest figures supplied by the Department of Energy Weekly Petroleum Status Report, August 10, 1979.

[3] Using a conversion factor of 5.8.

[4] The August maximum lawful price for section 103 gas.

North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM79–76. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EDT, October 15, 1979, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours.

B. Public Hearings

Public hearings on this proposed rule will be held on September 27 in Denver, Colorado, and on September 24 at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. The exact locations will be announced prior to September 5, 1979, by notice published in the **Federal Register.** Interested persons may also obtain this information by calling the Office of the Secretary of the Commission.

Requests to participate in either of the hearings should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, no later than seven days prior to the hearing. Requests should reference Docket No. RM79–76, and should indicate in which hearing the person wishes to participate, the amount of time required for the oral presentation, and the telephone number at which the person making the presentation can be reached. Persons participating in the public hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in each hearing will be available in the Commission's Office of Public Information three days before the hearing and will be available at the site of the hearing on the morning it is convened.

The hearings will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearings. Transcripts of the hearings will be available in the public file for this proceeding, Docket No. RM79–76, in the Commission's Office of Public Information.

(Natural Gas Act as amended, 15 U.S.C. 717 *et seq.*; the Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.*; the Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; EO 12009, 42 FR 46267)

Based on the foregoing, the Commission proposes to amend Parts 271 and 274 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 271 is amended in the Table of Contents under Subpart G by deleting the item "271.703 Definition of deep, high-cost natural gas" and inserting in lieu thereof the item "271.703 Definitions" and is further amended by adding an item after item 271.704 to read as follows: "271.705 recommendations regarding tight formations."

2. Subpart G of Part 271 is amended in §§ 271.701, 271.702 and 271.703 to read as follows:

§ 271.701 Applicability.

This subpart implements section 107 of the NGPA and applies to the first sale of natural gas which a jurisdictional agency determines is deep, high-cost natural gas or high-cost natural gas produced from a tight formation.

§ 271.702 Maximum lawful price.

(a) The maximum lawful price, per MMBtu, for deep, high-cost natural gas shall be the price specified for Subpart G of Part 271 in Table I of § 271.101(a).

(b) The maximum lawful price, per MMBtu, for high-cost natural gas produced from tight formations shall be equal to 150 percent of the maximum lawful price specified for Subpart C of Part 271 in Table I of § 271.101(a).

§ 271.703 Definitions.

For purposes fo this subpart the following definitions apply.

(a) Deep, high-cost natural gas is natural gas which a jurisdictional agency determines, in accordance with Parts 274 and 275, is produced:

(1) From any well, the surface drilling of which began on or after February 19, 1977; and

(2) From a completion location which is located at a depth of more than 15,000 feet.

(b) High-cost natural gas produced from a tight formation is natural gas which a jurisdictional agency has determined, in accordance with Parts 274 and 275, is non-associated natural gas produced from any well:

(1) The surface drilling of which began on or after August 17, 1979;

(2) Which qualifies as a new, onshore production well as defined in § 271.303;

(3) Which has been subject to an appropriate technique as defined in paragraph (c) of this section; and

(4) Which has been drilled into one of the following tight formations:

(i) The following designated tight formations:

Basin	Formation	Appropriate technique
Greater Green River	Fort Union	
	Almond A, or B, Erickson, Rock Springs/Blair, other Mesa Verde.	
Piceance	Fort Union, Corcoran-Cozette, other Mesa Verde.	
Uinta	Wasatch, Barren, Coaly, Castlegate.	
Northern Great Plains and Williston.	Judith River, Eagle, Carlisle, Greenhorn/Frontier.	
Big Horn	Mesa Verde	
Douglas Creek Arch	Mancos, Dakota	
Sonora	Canyon	
Cotton Valley Sweet	Cotton Valley and Gilmer lime.	
Denver	Niobrara, Sussex, Dakota.	
Ouachita	Stanley	
San Juan	Dakota	
Wind River	Frontier, Muddy	
East Texas	Bossier, Cotton Valley Sandstone, Haynesville, Smackover.	

(ii) Any other area of low deliverability that would not be expected to be developed in the absence of an incentive price because of the high costs of production and which the Commission has determined is a tight formation based upon the following guidelines:

(I) The formation must have an estimated average *in situ* gas permeability, throughout the pay section, of .03 millidarcies or less;

(II) A well drilled into the formation must be expected to produce, with no production stimulation, an average of 200 Mcf or less per day;

(III) Production from such a well must be expected to be increased substantially after the completion of an appropriate technique; and

(IV) No field rules for development of the formation or portion thereof have been established by or requested of a jurisdictional agency.

(c) The term "appropriate technique" is any technique (applied to a particular designated tight formation) which is:

(1) Substantially more expensive than those techniques used for a typical well which is not drilled into a tight formation; and

(2) Expected to increase substantially the rate of natural gas production which could be achieved without the technique.

3. Subpart G of Part 271 is further amended by adding § 271.705 to read as follows:

§ 271.705 Recommendations regarding tight formations.

In determining which additional formations constitute tight formations (for purposes of § 271.703(b)(4)(ii)) the Commission will consider all recommendations which contain the following information:

(a) Geographical and geological descriptions of the formation or portion of the formation which is recommended for classifcation as a tight formation;

(b) Geological and engineering data to support the recommendation and the source of that data;

(c) The number and location of all wells which produce or have produced natural gas from the recommended tight formation;

(d) The types and extent of appropriate techniques which are expected to be necessary and the expenditures necessary for employing those techinques;

(e) The degree of increase in production to be expected from use of such techniques and engineering and geological data to support that estimate;

(f) Information indicating that no field rules for development of the formation or portion thereof have been established by or requested of a jurisdictional agency; and

(g) Any other information which the applicant deems relevant.

4. Section 274.205 is amended to read as follows:

§ 271.205 High-cost natural gas.

(a) *Deep, high-cost natural gas.* A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is produced from a well which is a deep, high-cost well shall file an application with the jurisdictional agency which contains the following items:

(1) FERC Form No. 121;

(2) All well completion reports for which a determination is sought;

(3) Well logs or well servicing company reports or such other information which will corroborate the depth of the completion location reported in the well completion report;

(4) Directional drilling surveys if available;

(5) A statement by the applicant, under oath, that the surface drilling of the well for which he seeks a determination began on or after February 19, 1977, and that the well completion location is below a true vertical depth of 15,000 feet; and that he has no knowledge of any information not described in the application which is inconsistent with his conclusions; and

(6) If the jurisdictional agency so requires, certified copies of records relied on by the applicant, including copies of the agency's official files.

(b) *Natural gas produced from tight formations.* A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is produced from a tight formation well shall file with the jurisdictional agency an application which contains the following items:

(1) All those items specified in § 274.204 except the item specified in paragraph (d)(1) of that section;

(2) A map of sufficient clarity to locate and identify the well for which a determination is sought as being within a tight formation or portion thereof;

(3) Documentary evidence that the well has undergone an appropriate technique designated for the tight formation by the Commission; and

(4) A statement by the applicant, under oath, that the surface drilling of the well for which a determination is sought was begun on or after August 17, 1979.

[FR Doc. 79-27901 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 118]

[Docket No. 79N-0313]

Cacao Products and Confectionery; Current Good Manufacturing Practice Regulation; Proposed Revocation

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to revoke the current good manufacturing practice (CGMP) regulation for cacao products and confectionery. Applicable CGMP provisions for these products have been incorporated in a proposed revision of the "umbrella" CGMP regulation covering the manufacturing, processing, packaging, or holding of human food in general. The purpose of this document is to propose the elimination of a regulation that appears to be no longer necessary to protect the public health.

DATES: Comments by December 31, 1979. The agency proposes that the final rule based upon this proposal be effective 180 days after its date of publication in the Federal Register.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The final regulation establishing a current good manufacturing practice regulation (CGMP) for cacao products and confectionery (21 CFR Part 118, formerly 21 CFR Part 128c, before recodification of March 15, 1977 (42 FR 14302)) was published in the Federal Register of June 4, 1975 (40 FR 24162). Specific CGMP's were proposed for bakery foods in the Federal Register of February 12, 1976 (41 FR 6456) and for tree nuts and peanuts in the Federal Register of June 30, 1976 (41 FR 27000). The CGMP's for these specific segments of the food industry were intended to complement the overall "umbrella" CGMP's provided for in 21 CFR Part 110 (formerly 21 CFR Part 128 before the recodification of March 15, 1977 (42 FR 14302)). The "umbrella" CGMP's were published as a final regulation in the Federal Register of April 26, 1969 (34 FR 6977). The experience gained by the agency in regulating the food industry, in drafting various additional CGMP's for specific segments of the industry, in reviewing the comments received, and in evaluating other pertinent information, has shown that many of the problems addressed in the specific CGMP regulations are common to all parts of the food industry. Based on its experience, the agency believes that, rather than continuing to maintain and propose specific CGMP regulations for each of the numerous segments of the food industry, the better course is to revise the "umbrella" CGMP's in 21 CFR Part 110 to include all necessary CGMP requirements, including applicable portions of 21 CFR Part 118 and the proposed CGMP's for bakery foods and peanuts and tree nuts.

A proposed revision of 21 CFR Part 110, published in the Federal Register of June 8, 1979 (44 FR 33238), would establish detailed good manufacturing practices for food industry personnel, plants and grounds, sanitary operations, facilities and controls, equipment and utensils, processes and controls, product coding, warehousing and distribution, records, and natural or unavoidable defects. As stated in the preamble to that proposal, the agency is staying the rulemaking proceedings on the CGMP proposals for bakery foods and tree nuts and peanuts pending evaluation of comments on the proposed revision of the "umbrella" CGMP's. The June 8, 1979 preamble also stated that, after the

comments are evaluated, the agency would determine what action to take with respect to those proposed regulations and would consider whether all or part of the cacao products and confectionery CGMP's should continue in effect. As stated above, the agency's present intention is to include all necessary CGMP requirements in the "umbrella" CGMP's making it possible to revoke the separate cacao products and confectionery CGMP's. By proposing the revocation of Part 118 at this time, FDA will be in a position to take final action on the revocation if final action is taken to promulgate Part 110.

FDA will hold public hearings on the proposal to revise Part 110 in Chicago, IL, September 11, 1979; in San Francisco, CA, October 3, 1979; and in Atlanta, GA, October 24, 1979, as announced in the **Federal Register** of June 19, 1979 (44 FR 35242). The confectionery industry is invited to comment at the hearings or in writing on the proposal to revise Part 110 with specific emphasis on the aspects relating to confectionery manufacture. Members of the baking and tree nut and peanut industries as well as all other food processors are also invited to comment at the hearings or in writing on the proposal to revise Part 110.

FDA proposes that any final rule based on this proposal be effective 180 days after its date of publication in the **Federal Register**. Further, FDA intends to publish the final regulation on 21 CFR Part 118 in the same issue of the **Federal Register** as the final regulation revising 21 CFR Part 110.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 302, 303, 304, 402(a), 701(a), 52 Stat. 1043–1046 as amended, 1055 (21 U.S.C. 332, 333, 334, 342(a), 371(a))) and the Public Health Service Act (sec. 361, 58 Stat. 703 (42 U.S.C. 264)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended by revoking Part 118—Cacao Products and Confectionery.

Interested persons may, on or before December 31, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 31, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27861 Filed 9–4–79; 11:11 am]

BILLING CODE 4110–03–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Part 110]

Safety and Health Standards for Surface Construction

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Secretary of Labor is considering a regulation which consists of safety and health standards applicable to construction on the surface of mine property. The Secretary is required to develop these rules under section 101(a)(8) of the Federal Mine Safety and Health Act of 1977. The Mine Safety and Health Administration (MSHA) has developed a draft regulation which represents the first step in the rulemaking process and which is available for the public comment.

DATES: Comments must be received on or before October 22, 1979.

ADDRESSES: Send comments to the Office of Standards, Regulations and Variances; MSHA, Room 631, Ballston Towers #3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Regina F. Johnson, Room 631, Ballston Tower #3, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235–1910.

SUPPLEMENTARY INFORMATION: In considering this regulation, the Secretary has taken into account two principles:

1. The similarity between the hazards in both mining and nonmining surface construction, and

2. The desirability of having a single set of standards within the Department of Labor (DOL) which would apply to all construction activity, whether related to mining or not.

For these reasons, MSHA believes that promulgation of the standards identified by the Occupational Safety and Health Administration (OSHA) of DOL as applicable to construction activities within the jurisdiction of that agency, would fulfill the principles enumerated above and that these same standards should be applied to construction activities on mine property as well. The draft proposed regulation being considered is essentially that published in the **Federal Register** by OSHA on February 9, 1979 (44 FR 8577), i.e., 29 CFR Part 1926 (Occupational Safety and Health Regulations for Construction) and those standards in Part 1910 (General Industry Safety and Health Standards) that are applicable to construction work.

A draft of this proposed regulation has been mailed to persons known to be interested. All other interested persons may obtain a copy of the draft by submitting a request to the address provided above.

Dated: September 4, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79–28003 Filed 9–6–79; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[31 CFR Part 103]

Financial Recordkeeping and Reporting of Currency and Foreign Transactions

AGENCY: Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the currency transaction reporting regulations to require that (1) the reports be filed more timely; (2) that more complete identification of the customer be furnished; (3) that the financial institution be required to retain a copy of the report for five years; and (4) that the exemption from the reporting requirement for transactions with an established customer maintaining a deposit relationship be limited to retail business in the United States and that the location and character of the business shall be identified in the report of exempt customers furnished to Treasury.

DATE: Comments must be received on or before November 6, 1979.

ADDRESS: Comments on this proposal should be sent to Assistant Secretary (Enforcement and Operations) Department of the Treasury, Rm. 4308 1500 Pennsylvania Avenue, N.W. Washington, D.C. 20220

FOR FURTHER INFORMATION CONTACT: Robert J. Stankey, Jr., Adviser to the Deputy Assistant Secretary (Enforcement), 202–566–5630.

SUPPLEMENTARY INFORMATION: The Currency and Foreign Transactions Reporting Act (Pub. L. 91–508, Title II, October 26, 1970) requires that certain transactions involving currency be reported to the Secretary of the Treasury by financial institutions. A financial institution within the United States generally must file a Currency Transaction Report, IRS Form 4789, for each deposit, withdrawal or exchange of currency or other transaction which involves more than $10,000 in currency. The report is required to be filed with the Internal Revenue Service on or before the 45th day following the date on which the transaction occurred.

Recent studies have shown, however, that the level of cash transactions continues to increase. The pattern of these increases suggests that there is still much that is not known about the nature of this currency flow and that not all transactions that should be reported are being reported. The following amendments to the regulations under the Currency and Foreign Transactions Reporting Act are designed to provide enhanced capability to monitor and try to assure complaince with this statute. They will also provide additional information concerning possible illegal or improperly unreported flows of currency in the United States. This will enable determinations to be made as to the need for follow-up investigations and/or other legal action.

The proposed amendments would:

(1) Require that the report be filed within 15 days after the day on which the transaction occurred. Financial institutions are expected to have little difficulty in meeting this deadline, and the increased promptness should substantially increase the value of the information to law enforcement agencies.

(2) Require financial institutions to retain a copy of each Currency Transaction Report for a period of five years. While it is our understanding that many banks routinely retain copies of the reports, the requirement would ensure that copies would be available for the use of the bank supervisory agencies that have the responsibility for examining financial institutions for compliance with the reporting requirement.

(3) Refine the requirements for the identification of a customer for whose account an unusual currency transaction is to be effected, and his agent in such transactions, to specify the documents that will be acceptable for identification of aliens and citizens and require that the method used be included in the report.

(4) Banks are not presently required to report transactions solely with, or originated by, financial institutions or foreign banks. The revision would limit this exemption to transactions with other domestic banks. The change would require banks to report large currency transactions with securities dealers, foreign banks, and miscellaneous financial institutions, such as exchange dealers, persons in the business of transferring funds for others, and money order issuers. The additional information concerning the currency transactions with foreign banks and non-bank financial institutions will substantially improve the Treasury Department's ability to obtain overall compliance with the regulations and alert the Department to unusual transnational movements of currency.

Since Treasury presently does not receive reports of currency transactions between domestic and foreign banks, it is not possible to develop information concerning normal international flows or to identify unusual movements which might relate to criminal activities. The proposed requirement would correct this deficiency.

The proposed requirement that banks report transactions with securities brokers/dealers and other miscellaneous financial institutions would provide an effective and badly needed check on the compliance of such institutions with the regulations. Such institutions are much more difficult to recognize and catalogue than are banks. Therefore, it is not surprising that there are indications that many of them have not been identified or inspected for compliance. By requiring banks to report large currency transactions with such firms, the opportunity to identify those that are dealing in significant amounts of currency will be greatly increased. Once identified, they can be scheduled for compliance checks.

(5) Banks are exempted from reporting currency transactions with an established customer maintaining a deposit relationship with the bank, in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry or profession of the customer concerned. This requires the bank to exercise its professional judgment in determining whether or not a currency transaction report should be filed. The proposed revision would require a record of the exemption to be made at the time it is granted and would limit the exemption to an established customer who operates a retail type of establishment within the United States. If the customer is located in a contiguous or neighboring country, or if the business is not a retail establishment, a currency transaction report would be required.

The exemption procedure, which has been in effect since the regulations were initially issued, was provided to reduce unnecessary and unproductive reporting by the banks. The exemption has been limited to retail type businesses, such as a small loan company, a race track, a department store, a theater, a supermarket, sports arena, etc. It is unlikely that other types of lawful businesses would routinely deposit large amounts of currency.

(6) To ensure that this exemption is judiciously employed by the bank, a report listing the customers whose currency transactions are not reported because of the above exemption is now required to be made to the Secretary of the Treasury or his delegate upon demand. The revision would: (1) specify that such report shall include the name, street address of the business, nature of the business, taxpayer identification number, and deposit account number of the customer whose transactions have been exempted under this provision; (2) elaborate on the Secretary's authority to require the filing of the Form 4789 reports for any customer listed and (3) require the report to be submitted within 15 days following receipt of the demand for the report. These amendments would provide the information Treasury needs to review the exemptions to ensure that they are appropriate.

DRAFTING INFORMATION: The principal authors of this document are Robert J. Stankey, Adviser to the Deputy Assistant Secretary (Enforcement) and Shanley Keeter, Attorney Adviser, Office of the General Counsel. However, other personnel of the Office of Enforcement and Operations and the Office of the General Counsel participated.

AUTHORITY AND ISSUANCE: Accordingly, the proposed regulations are being issued under the authority contained in the Currency and Foreign Transactions Reporting Act, 84 Stat. 1118, 31 U.S.C. 1051–1122, as follows:

1. Section 103.22 of Part 103 of Title 31, Code of Federal Regulations, as revised, reads as follows:

§ 103.22 Reports of currency transactions.

(a) Each financial institution shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution, which involves a transaction in currency of more than

$10,000. Such reports shall be made on forms prescribed by the Secretary and all information called for in the forms shall be furnished.

(b) Except as otherwise directed in writing by the Secretary this section shall not: (1) require reports of transactions with Federal Reserve Banks or Federal Home Loan Banks; or (2) require reports by banks of transactions with other domestic banks.

(c) Except as otherwise directed in writing by the Secretary, a bank is not required to routinely report currency transactions with an established depositor who is a United States resident and operates a retail type of business in the United States, where such transactions are in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the lawful, domestic business of that customer, such as, for example, a small loan company, a race track, a department store, a theater or sports arena, etc. A record of the exemption must be made at the time it is granted. Such exemptions may be reviewed by the Assistant Secretary (Enforcement and Operations); and he may require a bank to file the usual reports as prescribed in paragraph (a) of this section with respect to any depositor whose transactions have been previously exempted. A report listing the name, street address of the business, nature of the business, taxpayer identification number, and deposit account number of each customer, who engages in transactions which are not reported because of the exemption contained in this paragraph shall be made to the Assistant Secretary (Enforcement and Operations) within 15 days following receipt of his request.

2. Paragraph (a) of § 103.25 of Title 31, Code of Federal Regulations, as revised, reads as follows:

§ 103.25 Filing of reports.

(a) A report required to be filed by the first paragraph of § 103.22 shall be filed within 15 days following the day on which the transaction occurred. A copy of each such report shall be retained by the financial institution for a period of five years from the date of the report. The reports shall be filed with the Commissioner of Internal Revenue on forms to be prescribed by the Secretary. All information called for in such forms shall be furnished.

* * * * *

3. Section 103.26 of Part 103, Code of Federal Regulations, as revised, reads as follows:

§ 103.26 Identification required.

Before effecting any transaction with respect to which a report is required under paragraph (a) of § 103.22, a financial institution shall verify and record the name and address of the person presenting the transactions, as well as record the identity, account number, and the social security or taxpayer identification number, if any, of the person for whose account such transaction is to be effected. Verification of the identity of aliens must be made by passport, alien identification card, or other official document evidening foreign nationality or residence. Verification of identity in any other case may be by examination of a document normally acceptable as a means of identification when cashing checks, for example, a driver's license or credit card. In each instance, the method used in vertifying the identify of the customer shall be recorded on the report.

Dates: August 31, 1979.

Richard J. Davis,

Assistant Secretary (Enforcement & Operations).

[FR Doc. 79-27894 Filed 9-6-79; 8:45 am]

BILLING CODE 4810-25-M

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-3A]

Compulsory License for Making and Distributing Phonorecords

AGENCY: Library of Congress, Copyright Office.

ACTION: Announcement of availability of background paper and notice of meeting.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress (1) has prepared a background paper addressing certain aspects of § 201.18 and § 201.19 of its regulations, as amended (or an interim basis) on October 30, 1978; and (2) will hold a public meeting on October 19, 1979, to consider comments on the principles and conclusions embodied in the background paper. These regulations were issued to implement section 115 of the Copyright Act of 1976, which establishes a compulsory license for the making and distribution of phonorecords of nondramatic musical works. The effect of the interim regulations, as amended, was to establish requirements governing the content and service of certain notices and Statements of Account to be filed by persons exercising the compulsory license. After extensive hearings, public comments, and study of the problem, the Copyright Office has reached tentative conclusions on the principal points in issue, and these conclusions are described and discussed in some detail in the background paper. Following an informal discussion of these conclusions at the public meeting on October 19, 1979, the Copyright Office will institute further proceedings aimed at the issuance of final regulations on the subject.

DATES: The meeting will be held at 9:30 a.m. on October 19, 1979.

ADDRESSES: The background paper, embodying the Copyright Office's tentative conclusions with respect to the calculation of royalty payments under section 115, will form the basis of discussion at the meeting to be held on October 19, 1979. Copies of the paper may be obtained by writing to or calling: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202, (703) 557-8731. If you wish to pick up a copy in person, you should come to the following address: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Crystal Mall Building No. 2, Room 519, 1921 Jefferson Davis Highway, Arlington, Virginia. The meeting to discuss the conclusions outlined in the background paper will be held in Room 910, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

Advance requests to participate will not be required, but will be helpful to the Copyright Office in planning the meeting. Similarly, written comments on the background paper (or on other written comments) are not required but could prove useful to the Copyright Office and to the other parties. Anyone filing written comments should submit ten copies, preferably on or before October 12, 1979. Requests to participate and written comments should be addressed, if by mail, to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202, (703) 557-8731. Or, if delivered by hand, requests or comments should be brought to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Crystal Mall Building No. 2, Room 519, 1921 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (703) 557-8731.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to bring

together the representatives of the interests concerned with the calculation of royalty payments under section 115, for a full, informal discussion, in an effort to sharpen, narrow, and, if possible, settle remaining issues and thus to assist the Copyright Office in issuing final regulations on the subject. To encourage an atmosphere of free-wheeling, open, give-and-take interchanges among the parties, the Copyright Office decided: (1) to make the meeting open for participation or attendance by the public; (2) to concentrate on discussion of issues among the participants rather than formal presentations; and (3) to prepare summary minutes of the meeting rather than a verbatim transcript.

Section 115 of 17 U.S.C. provides that "[w]hen phonorecords of a nondramatic musical work have been distributed to the public in the United States under authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work" for certain purposes. A compulsory license permits that use of a copyrighted work without the consent of the copyright owner if certain conditions are met and royalties paid.

Paragraphs (b) and (c) of section 115 direct the Copyright Office to issue regulations governing the content and filing of certain notices and Statements of Account under this section. On April 26, 1977, in accordance with an Advance Notice of Proposed Rulemaking (42 FR 16837), we held a public hearing aimed at formulating regulations under this section. After considering the testimony given at the hearing and in supplemental statements, on December 29, 1977 (42 FR 64889), we issued interim regulations. We then considered public comments received in response to the interim regulations and, on September 28, 1978 (43 FR 44511), we: (1) Adopted amendments to the interim regulations; and (2) announced a public hearing to be held on November 28 and 29, 1978, to take testimony on the interim regulations as amended. The record ramained open until January 31, 1979 (43 FR 57252), for receipt of written statements from any interested person, including supplemental statements from the witnesses.

Paragraph (c)(2) of section 115 states that statutory royalties are payable for every phonorecord made and distributed under the license; it defines distribution as occurring when "the person exercising the compulsory license has voluntarily and permanently parted" with possession of the phonorecord. In discussing the meaning of the term "permanent" for these purposes, the Report of the Judiciary Committee of the House of Representatives states (H.R. REP. NO. 94–1476, 94th Cong., 2d Sess. at 110–111):

> Under existing practices in the record industry, phonorecords are distributed to wholesalers and retailers with the privilege of returning unsold copies for credit or exchange. As a result, the number of recordings that have been "permanently" distributed will not usually be known until some time—six or seven months on the average—after the initial distribution. In recognition of this problem, it has become a well-established industry practice, under negotiated licenses, for record companies to maintain reasonable reserves of the mechanical royalties due the copyright owners against which royalties on the returns can be offset. The Committee recognizes the possibility that, without proper safeguards, the maintenance of such reserves could be manipulated to avoid making payments of the full amounts owing to copyright owners. *Under these circumstances, the regulations prescribed by the Register of Copyrights should contain detailed provisions ensuring that the ultimate disposition of every phonorecord made under a compulsory license is accounted for, and that payment is made for every phonorecord "voluntarily and permanently" distributed. In particular, the Register should prescribe a point in time when, for accounting purposes under section 115, a phonorecord will be considered "permanently distributed,"* and should prescribe the situations in which a compulsory licensee is barred from maintaining reserves (e.g., situations in which the compulsory licensee has frequently failed to make payments in the past.) [*Italics added*]

Most of the testimony at the public hearing held on November 28 and 29, 1978, dealt with our amended interim regulations [§ 201.19(a)(4)] designed to implement this provision. The record of the hearing, including the testimony and the written statements received before and after the hearing, helped a great deal to clarify the difficult accounting issues presented by section 115. The Copyright Office has given careful consideration to the information and arguments that came out of the November 1978 hearing, and has reached some tentative conclusions as to what our final regulations on the point should provide. These conclusions have been set out in the background paper referred to above, and will be the subject of the meeting to be held on October 19, 1979.

The following is a very brief summary of the conclusions set out and discussed in detail in our background paper:

1. *Certain earlier conclusions confirmed.* The hearing served to reinforce certain conclusions underlying our interim regulations now in effect:

(a) *GAAP.* Reserves must be estimated in accordance with generally accepted accounting principles (GAAP).

(b) *One-year cut off.* The "point in time" when a phonorecord is considered "permanently distributed"—when reserves must be paid out—is one year, measured from the month of a particular shipment of phonorecords (not from the initial release date of the recording).

(c) *No percentage limitation.* GAAP would control the setting of reserve percentages, and there would be no fixed percentage limitations on the number of phonorecords that may be reserved.

(d) *No refunds under regulations.* The regulations will not include a provision explicitly requiring the refund of royalties in the case of overpayments.

(e) *No middle paragraph.* The CPA certification of the Annual Statement of Account would not contain a "middle paragraph" allowing the accountant to explain or qualify the Statement.

2. *Changes in earlier conclusions.* The hearing convinced us that some of our earlier conclusions were wrong, and that our interim regulations should be changed accordingly:

(a) *No tracking.* We now conclude that a requirement for actually tracking particular phonorecord shipments, and determining whether phonorecords are destroyed or reshipped, is impractical.

(b) *Use of FOFI.* Instead of tracking, the compulsory licensee should be required to reduce phonorecord reserves in accordance with the "first-out-first-in" (FOFI) accounting convention.

(c) *New formula for calculating royalties.* As a result of the foregoing conclusions, we have developed a formula to be used in computing monthly royalty payments under the compulsory license.

Step 1: Compute the total gross number of phonorecords shipped in the given month. (*Add* the gross number relinquished from possession for purposes other than sale *and* the gross number relinquished from possession for purposes of sale.)

Step 2: Subtract the number that have been reserved in the given month. (*Deduct* from the total arrived at in Step 1 the gross number of phonorecords relinquished from possession for purposes of sale in the given month that have been reserved under GAAP.)

Step 3: Add the amount of lapsed reserves. (*Add,* to the subtotal resulting from Step 2, the number of phonorecords relinquished from possession for purposes of sale that have been reserved in the 12th previous month and have not been offset under FOFI by actual returns. *This gives you the*

monthly total of voluntarily distributed phonorecords.

Step 4: Multiply by the statutory royalty rate. (Multiply the result of Step 3 by the statutory rate of 2¾ cents or ½ cent per minute or fraction of playing time, whichever is larger; *this gives you the monthly royalty payment.*)

Our hope is that those participating in the October 19, 1979, meeting will concentrate their comments on this formula, including the use of FOFI, and that they will not restate positions and arguments already amply documented in the record of these proceedings. The record of this phase of the proceedings will be kept open until November 19, 1979, for receipt of written supplemental comments.

(17 U.S.C. 115; 702; 708.)

Dated: August 29, 1979.

Barbara Ringer,

Register of Copyrights.

Approved:

Donald C. Curran,

Acting Librarian of Congress.

[FR Doc. 79-27949 Filed 9-6-79; 8:45 am]

BILLING CODE 1410-03-M

POSTAL SERVICE

[39 CFR Part 775]

National Environmental Policy Act (NEPA) Implementing Procedures

AGENCY: Postal Service.

ACTION: Addition to June 25, 1979 Proposed Rule.

SUMMARY: On June 25, 1979, the Postal Service published in the **Federal Register** (44 FR 36991) for comment a proposed rule implementing the National Environmental Policy Act (NEPA) in voluntary compliance with the Council on Environmental Quality's NEPA regulations which were published in November, 1978. (43 FR 55978). The proposed rule contained in section 775.4(b), under the subheading *Categorical Exclusions*, a list of the classes of actions which normally do not require either environmental assessment or environmental impact statements. Subsequent to that publication, the Postal Service has identified several additional types of actions which we believe have no significant impact on the human environment. We are proposing to add those actions to the previously published proposed list of categorical exclusions.

DATE: Written comments must be received by September 24, 1979.

ADDRESS: Written comments should be sent to Director, Office of Program Planning, Real Estate and Buildings Department, United States Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 AM and 4 PM, Monday through Friday, in Room 8992, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Frank Rowan, (202) 245-4348.

SUPPLEMENTARY INFORMATION: The five typical classes of action that are proposed to be added to the list of categorical exclusions involve (1) new facility construction of 10,000, or less, net square feet; (2) purchase or lease of an existing building containing 20,000, or less, net square feet of space where a new or substantially enlarged occupancy is not involved; (3) repair to or replacement in kind of building equipment or components (e.g., electrical distribution or HVAC systems, doors, windows, roofs); (4) disposition of real property consisting of (i) one acre, or less, of unimproved land in an urban area; (ii) five acres, or less, of unimproved land in a rural area; (iii) permits, licenses, or leases for a one year term, or less; and (iv) line-of-sight, utility, aviation, flight clearance, and right-of-way easements; and (5) routine actions normally conducted to protect and maintain properties.

Notwithstanding the listing of the above kinds of actions as categorical exclusions as is proposed herein, an environmental assessment will have to be made in every case unless a written determination is made under § 775.6(a)(1) after adoption of the previously published proposed rule, that the action is not affected by extraordinary circumstances which may cause it to have a significant environmental effect.

In addition, the Postal Service is making a minor revision to § 775.4(a)(2) of the June 25, 1979 proposed rule by adding, after the word, "statements", a comma and the following phrase "except as excluded by § 775.4(b) below:". The phrase is being added to clarify that the categorical exclusions in proposed § 775.4(b) are exceptions to the requirements of proposed § 775.4(a).

When the Postal Service publishes proposed regulations in the **Federal Register** for comment, it generally allows a comment period of 30 days or more. In this case, however, it seems unnecessary to provide the full 30 day period, since the proposal published here is a minor addition to the proposal published on June 25, 1979. The customary 30 day comment period was given for that proposal and no comments from the public were received. In addition, publishing this proposal with a 30 day comment period would delay publication and implementation of the final rule. Accordingly, the Postal Service believes there are good reasons to shorten the comment period to 15 days in this case.

Although exempt from the notice and comment requirement of the Administrative Procedure Act, 5 U.S.C. 553(b), (c), regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of Title 39, CFR:

PART 775—ENVIRONMENTAL PROCEDURES

Revise proposed § 775.4(a)(2) and add new proposed § 775.4(b)(5)–(9) to read as follows:

§ 775.4 Typical classes of action.

(a) * * *

(2) Those which normally require environmental assessment but not necessarily environmental impact statements, except as excluded by § 775.4(b) below:

(b) * * *

(5) New construction, including lease-construction, of 10,000, or less, net square feet.

(6) Purchase or lease of an existing building containing 20,000, or less, net square feet of space where a new or substantially enlarged occupancy is not involved.

(7) Repair to or replacement in kind of building equipment or components (e.g., electrical distribution or HVAC systems, doors, windows, roofs).

(8) Disposition of real property as follows:

(i) One acre, or less, or unimproved land in an urban area.

(ii) Five acres, or less, of unimproved land in a rural area.

(iii) Permits, licenses, or leases for a one year term, or less.

(iv) Line of sight, utility, aviation flight clearance, and right-of-way easement.

(9) Routine actions normally conducted to protect and maintain properties.

(39 U.S.C. 401)

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-27909 Filed 9-6-79; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 52 and 81]

[FRL 1313-3]

Approval and Promulgation of Non-Attainment Plan for Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Part D of the Clean Air Act, as amended in 1977, requires States to revise their State Implementation Plans (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, Federal Register (44 FR 20372), and supplemented on July 2, 1979 (44 FR 38583).

In this notice the Iowa SIP submission is summarized, and issues that affect SIP approval are discussed. It should be noted that the emphasis is on deficiencies in the SIP. An evaluation report which describes the submission in greater detail is available for inspection by interested persons.

EPA proposes to approve fully certain portions of the Iowa submission and to approve other parts subject to certain conditions. The SIP submission consists of a mix of strategies including more stringent emission limits and commitments to conduct studies to determine what additional control measures are necessary. In addition to addressing the requirements of Part D, the submission was accompanied by recommendations and supporting information for revision of the non-attainment designations for total suspended particulate matter (TSP), sulfur dioxide, and ozone which were promulgated by EPA on March 3, 1978, (43 FR 8962). The State has not submitted a control strategy for areas which it has requested be redesignated as attainment or unclassified. These areas remain non-attainment until any redesignation is finally approved.

Approval means that regulations adopted by the State will also become enforceable by the Federal Government. Strategies, committed to by the State submission, become obligations upon the State.

DATES: Comments must be received before October 9, 1979.

ADDRESSES: Comments should be sent to: Mr. Daniel J. Wheeler, Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106.

Copies of the State submission and of the evaluation report are available during normal business hours at the above address and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C.
Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa.
Iowa Department of Environmental Quality, Regional Office, 209 North Franklin Street, Manchester, Iowa.
Iowa Department of Environmental Quality, Regional Office, 509 South President, Mason City, Iowa.
Iowa Department of Environmental Quality, Regional Office, 401 Grand Avenue, Suite 24, Spencer, Iowa.
Iowa Department of Environmental Quality, Regional Office, 316 Walnut, Atlantic, Iowa.
Iowa Department of Environmental Quality, Regional Office, 117 North Second Avenue, Washington, Iowa.
Des Moines-Polk County Health Department, East First and Des Moines Streets, Des Moines, Iowa.
Linn County Health Department, 751 Center Point Road, NE., Cedar Rapids, Iowa.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at 816-374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION:

A. General Discussion

The Clean Air Act as amended in 1977 contains requirements which must be addressed in a State Implementation Plan submission. Part D (section 171-176) details the requirements for an approvable non-attainment plan. The general requirements for SIPs are found in section 110. Section 120 requires non-compliance penalties. Section 121 requires the state to consult with local governments on certain matters. Section 123 limits the availability of dispersion techniques for certain sources. Section 126 relates to interstate pollution abatement. Section 127 requires public notification of violations of health related standards. Section 128 imposes requirements concerning conflicts of interest. Part C (Section 160-169) requires plans to contain measures for the prevention of significant deterioration of air quality.

For general background the reader may refer to the Federal Registers of April 4 and July 2, 1979, for the general preamble to the proposed rulemaking for all non-attainment plan submissions. Section 172 of Part D requires states to submit, to EPA, plan revision containing strategies to attain ambient air quality standards in all areas designated non-attainment. Non-attainment designations are codified in 40 CFR Part 81.

The state of Iowa has submitted revisions to its SIP as required by Part D. The state submittal does not address the other requirments of the Act. The submittal consists of five separate documents. The first is a package containing a series of requested redesignations. The other four documents are attainment plans for various pollutants for four major non-attainment areas.

These revisions were submitted by the Iowa Department of Environmental Quality (IDEQ) at the request of the Governor, to EPA on June 22, 1979. Receipt of the Iowa revisions was first announced in the Federal Register of July 17, 1979, (44 FR 41488) and public comment on the revisions was requested at that time.

The following areas are now designated in 40 CFR Part 81 as non-attainment for the indicated pollutants:

Total Suspended Particulates, Primary and Secondary—Mason City, Keokuk, Cedar Rapids, Des Moines, Council Bluffs, Davenport, Fort Dodge, Sioux City.
Total Suspended Particulates, Secondary Only—Clinton, Marshalltown, Muscatine, Waterloo.
Sulfur Dioxide, Primary and Secondary—Dubuque.
Ozone—Cedar Rapids, Des Moines, Council Bluffs, Davenport.
Carbon Monoxide—Des Moines.

The following areas are currently unclassified for the indicated pollutants:

Total Suspended Particulate—Ames, Iowa City, Burlington, Ottumwa, Cedar Falls.
Carbon Monoxide—Cedar Rapids, Davenport.

Of the above areas, the state has submitted plan revisions to attain the primary TSP standards in Des Moines, Mason City, Cedar Rapids and Davenport. The state has also submitted SIP revisions to attain the standards for carbon monoxide (CO) in Des Moines and ozone in Cedar Rapids. For other areas it has requested redesignations as discussed in the following section.

B. Redesignation Requests

The state's recommended changes in attainment status and EPA's proposed action are discussed for each applicable pollutant in the following section. Public comments on the original designations are also summarized.

A proposal to redesignate an area as attainment or unclassified for a particular standard is also a proposal to not require a non-attainment plan for that standard in that area. Areas that are finally redesignated will not need plans. Areas that are not redesignated will not need plans. Areas that are not redesignated will still be required to submit plans.

The Iowa Air Quality Commission (IAQC) has adopted criteria which were used by the state to make decisions on redesignations of non-attainment areas. Even though the redesignation criteria have been adopted in a state rule, they are not officially submitted. Thus, this proposal does not involve approval/disapproval of the state designation criteria. However, because the state applied the criteria in cases where redesignations were recommended, comments are provided to explain the basis for EPA's action on area redesignations.

The state criteria differ from EPA guidelines on area redesignation in two important aspects: (1) the amount of recent air quality data used in making the decision; and (2) the allowance for fugitive dust.

The Iowa criteria allow redesignations on the basis of a minimum of 18 months of air quality data. The state uses six consecutive running 12 month means as the criterion for determining compliance with the long-term annual pollutant standards. The State believes that the requirement for six consecutive running means is sufficient to establish a trend of attainment or non-attainment. The rules also base the attainment and the non-attainment of all short-term standards, except ozone, on any consecutive 12-month period in the most recent 18-month period. Ozone classifications use 24 months of data to determine the status. This criterion also requires the establishment of trends and prevents the attainment status of areas from changing rapidly.

Generally, EPA requires a minimum of eight quarters (24 months) of ambient air quality data showing no violations before an attainment redesignation can be approved. However, an attainment redesignation using at least four quarters of data can be approved if the reductions in pollutant levels can be attributed to real emission reductions from sources covered by enforceable state regulations.

Even though the state redesignation criteria do not meet EPA guidance for minimum air quality data availability, each geographic area which is a candidate for redesignation has been evaluated by the EPA on a case by case basis and where there is sufficient information, it has been used in this proposed rulemaking.

(1) *Total Suspended Particulates (TSP).*—Twelve areas in Iowa are designated non-attainment for either the primary or secondary standard. The designations were based on state recommendations using monitored violations of annual and/or short term ambient air quality standards. Where the boundaries of areas actually in non-attainment were uncertain, the state recommended that a number of townships adjoining those with monitored violations be included in the designated non-attainment areas.

The state conducted extensive air quality simulation modeling for all Iowa non-attainment areas in conjunction with development of SIP revisions for these areas. The state has refined the initial non-attainment area boundaries based upon the results of the modeling and on air quality data collected since the original designations.

The Iowa redesignation criteria contain a provision which provides for deduction of what is termed "rural fugitive dust" once it has been demonstrated that the primary TSP standards have been met in any area. The state's definition of rural fugitive dust is "dust resulting from agricultural activities and travel on rural unpaved roads." Thus, the state believes that the total particulate background concentration in any area is dependent on natural worldwide background concentration, plus the local and statewide rural fugitive background concentrations.

The state has computed a value for the rural fugitive background for all particulate non-attainment areas in the state. These values contain a component for emissions from unpaved roads and an additional amount assumed to be from agricultural processes, such as tilling and soil erosion. The agricultural contribution to background was computed specifically for each area based upon climatic factors, soil types, soil erodibility, crops planted, and tilling frequencies. This background value was subtracted from the actual or projected air quality levels once attainment of the primary air quality standards was shown. The result in either case was used to show secondary standard attainment without additional emission controls.

The EPA policy on accounting for fugitive dust in attainment status designations is described in the March 3, 1978, (43 FR 8962) rulemaking. Under the policy, rural areas experiencing TSP violations that could be attributed to fugitive dust can, in certain specific cases, be designated as attainment. The policy was written to recognize the relatively lower environmental impact of fugitive dust in rural versus urban areas. This was based upon the belief that the toxic fraction of fugitive dust in rural areas without impact of industrial pollutants is likely to be small.

In order to be classified as rural under the policy, an area must meet two criteria: (1) lack major industrial development or significant industrial sources of particulate emissions; and (2) have low urbanized population. For this proposed rulemaking action, significant industrial sources are defined as those with actual particulate emissions of more than 100 tons per year. Areas with low urbanized population would be those metropolitan areas with less than 50,000 population.

The Iowa redesignation criterion pertaining to the rural fugitive dust is not consistent with EPA policy because Iowa applies the criterion in areas with high population and significant industrial sources of particulate emissions. Therefore, if secondary particulate air quality standards were exceeded in such areas, EPA will not accept the state's recommendation to designate them as unclassified or attainment, but proposes to designate those areas as secondary non-attainment.

The reader should refer to the March 3, 1978, **Federal Register** for information concerning existing non-attainment area designations. The present designations use township boundaries to describe the non-attainment areas. In some cases, several townships are included in a non-attainment area. In the Iowa request for redesignation, non-attainment areas have been refined and in most cases reduced in size. Boundaries for the areas follow streets, railroads, highways or other physical land features. The precise description of the areas is in the state submission and in the evaluation report. In order to simplify the discussion in this proposal, non-attainment areas will be identified by the largest city in the area.

a. Waterloo (Black Hawk County). The present designation of Waterloo is secondary standard non-attainment with surrounding areas in Cedar Falls and East Waterloo townships unclassified. The state recommended that a portion of the City of Waterloo be redesignated as unclassified and the remainder of the area as attainment. Modeling by the state indicates part of the area exceeds secondary particulate standards. Air quality data indicate violations of the secondary standard. Because of these indications, EPA believes the area should still be designated as secondary non-attainment. The EPA proposes to reduce the size of the secondary non-attainment area in Waterloo to coincide with the unclassified area recommended by the state.

b. Mason City (Cerron Gordo County). The present designation of Mason City is primary particulate non-attainment. The designation was based on data showing primary and secondary

violations in Mason City. Only one of the three monitors in the area has shown violations of the primary standard over the past two years and diffusion modeling by the state indicates the size of the primary non-attainment area should be reduced. The modeling and monitoring indicate the secondary standards are still exceeded in two areas outside the primary non-attainment area. The state has proposed to redesignate these areas, as unclassified based upon the rural fugitive dust criterion. EPA disagrees with the state's recommendation because of the presence of significant industrial sources in the area. Therefore, EPA proposes to retain the secondary non-attainment classification for the areas the state has proposed to be unclassified. EPA proposes to accept the state recommendation to reduce the size of the primary particulate non-attainment area in Mason City. These proposals are to adjust the size and shape of the areas and do not represent new designations.

c. Clinton (Clinton County). The present designation for Clinton is secondary non-attainment. The submission indicates both monitored and modeled violations of the secondary particulate standard. The modeling indicates the size of the secondary non-attainment area is not as large as the area presently designated. There are significant sources of particulates in the area. The state has recommended that part of the area be redesignated to unclassified based upon rural fugitive dust and that the remainder be classified as attainment. EPA accepts the state analysis but disagrees with the conclusion. EPA proposes to reduce the size of the non-attainment area to coincide with the recommended unclassified area.

d. Keokuk (Lee County). The present designation of Keokuk is primary non-attainment. Measured air quality data over the past two years indicate that the primary TSP standards have been attained. Monitoring still shows secondary violations. The state recommends that the area be redesignated as unclassified based upon its rural fugitive dust criterion. Because the area contains significant industrial sources, EPA disagrees with the state recommendation. EPA proposes to remove the primary non-attainment designation and to retain the secondary non-attainment designation. Modeling indicates the size of the designated area can be reduced to coincide with the state proposed unclassified area.

e. Cedar Rapids (Linn County). The present designation of Cedar Rapids includes a primary particulate non-attainment area surrounded by several townships which are unclassified. The state recommends that the designated primary non-attainment area be reduced in size based upon results from monitoring and modeling. The area around the primary particulate non-attainment area would be designated unclassified by the state based upon the rural fugitive dust criterion. EPA proposes to accept the state recommendation for the primary non-attainment area in Cedar Rapids. However, because of the substantial population of the region (over 130,000) and the number of significant sources in the area, EPA cannot accept the rural fugitive dust explanation. Therefore, EPA proposes to retain the secondary non-attainment designation for the state proposed unclassified area.

f. Marshalltown (Marshall County). The present designation of Marshalltown is secondary non-attainment for particulates. Measured air quality data indicate that the secondary standards have been exceeded over the past two years. There are significant sources of particulates in the area. The state recommended redesignation to attainment based on fugitive dust. Because there are significant stationary particulate sources, EPA cannot accept an attainment designation for an area with monitored violations. EPA does not propose to change the present secondary particulate non-attainment designation for the City of Marshalltown.

g. Muscatine (Muscatine County). Muscatine is designated as secondary particulate non-attainment. A comment was received concerning the designation of Muscatine in the March 3, 1978 Federal Register from a local industry. The commentor indicated that the data used for the original designation should be discounted because of fugitive dust sources in the vicinity of the sampler. The State of Iowa evaluated the data and determined it was valid. EPA accepted the state determination.

The state recommended that the area be redesignated as unclassified based upon its rural fugitive dust criterion. There are a number of significant industries and public utilities in the area which are sources of particulate matter. There are still monitored and modeled violations of the secondary particulate air quality standards. Based on the modeling conducted by the state, EPA proposes to reduce the size of the designated non-attainment area to coincide with the unclassified area recommended by the state.

h. Des Moines (Polk County). The Des Moines area is presently designated a primary particulate non-attainment area. Air quality modeling and monitoring results indicate that only four portions of the designated area are exceeding primary standards. One of the portions for which monitored values exceed the primary particulate standard is the City of Ankeny which is located approximately 12 miles north of downtown Des Moines. Because the area is a part of the Des Moines metropolitan area and because there are indications the standards violations resulted from unpaved parking lots and streets, the primary particulate non-attainment designation was applied to the area by the state. Modeling indicates three areas in Des Moines also exceed the primary standards. The state has recommended that only the four specific portions of the area remain primary standard non-attainment.

Additional portions of the Des Moines area have been shown to violate only the secondary particulate standards. The areas shown to be violating secondary standards were recommended to be designated unclassified based on the states rural fugitive dust criterion. EPA proposes to accept the state's recommendation for primary particulate non-attainment designation in the Des Moines area. However, the area recommended to be designated as unclassified by the state does not quality as a rural area. EPA proposes to retain the secondary standard non-attainment designation for this area.

i. Council Bluffs (Pottawattamie County). The present designation of Council Bluffs is priamry particulate standard non-attainment in the area of Kane Township. Particulate sampling in the past three years has been deficient at some stations because inadequate samples were collected to calculate valid annual values. Three TSP sampling stations were operated in Council Bluffs during 1977 and 1978. Two of the samplers registered violations of the secondary standards. One station violated short term primary standards. However, this station is unduly influenced by reintrained road dust and is not representative of air quality in the area, so the data have been discounted. The area has been modeled and the results indicate the secondary standards are exceeded.

The state has recommended an attainment designation based on its rural fugitive dust criterion. However, Council Bluffs is part of metropolitan Omaha and cannot be considered rural. For Kane Township, EPA proposes to

remove the primary non-attainment designation and retain the secondary designation.

j. Davenport (Scott County). Several townships in the Davenport area are presently designated primary non-attainment. Monitoring indicates that primary particulate standards are exceeded in only a small area near downtown Davenport. Monitored violations of secondary standards have occurred throughout the area. Modeling results confirm measured air quality values. The state's recommendation is to reduce the size of the primary particulate standard non-attainment area and redesignate a large surrounding area as unclassified based upon rural fugitive dust. EPA proposes to accept the area defined by the state as primary particulate standard non-attainment. However, EPA proposes that the state recommended unclassified area remain secondary non-attainment because of the monitored violations and the population of the area.

k. Fort Dodge (Webster County). Fort Dodge is presently designated primary particulate non-attainment. Monitoring data from 1977 to 1978 indicate no violations of the annual or 24 hour primary standard. Violations of the secondary standard were monitored during 1977 and 1978. The state's recommendation is to designate part of the Fort Dodge area as unclassified based upon it's rural fugitive dust criterion. Because there are a number of significant sources in the area and modeling by IDEQ indicates these sources have a considerable impact on air quality. EPA cannot approve the state recommendation. EPA proposes to remove the primary non-attainment designation and to retain the secondary designation for an area to coincide with the suggested unclassified area.

l. Sioux City (Woodbury County). Sioux City is presently designated primary particulate standard non-attainment. Monitoring data for 1977 indicated that primary standards were exceeded. However, in 1978, the air quality improved dramatically. This improvement was assumed by the state to result from the completion of construction work in the vicinity of the two monitors where violations were measured. This assumption was confirmed by modeling the impact of the fugitive emissions from the construction. Both modeling and recent air monitoring results indicate the primary particulate standards have been met but secondary standards have not. The state proposed to redesignate the area as unclassified based on fugitive dust. Because of population and significant sources, Sioux City cannot be considered a rural area. EPA proposes to remove the primary non-attainment designation and to adjust the boundries of the secondary non-attainment area to coincide with the state's recommended unclassified area.

(2) *Ozone.*—The March 3, 1978, **Federal Register** designated four Iowa counties as non-attainment for ozone. These counties are Linn, Polk, Pottawattamie and Scott. In addition, several counties were identified by the state as being unclassified. Iowa proposes to redesignate Polk County and Pottawattamine County as attainment and Scott County as unclassified for ozone. Linn County would remain a non-attainment area for ozone.

The recommendation to eliminate the ozone non-attainment designation from three of four Iowa counties results from the revision to the National Ambient Air Quality Standard from 0.08 ppm oxidant (maximum hourly average) to 0.12 ppm ozone. Where ambient monitoring data showed air quality was better than the revised standard, the state recommended that the counties be redesignated as attainment. Where ambient air quality standard violations have not been monitored, but where sufficient data is not available, Iowa recommended redesignation as unclassified.

The state has submitted data to EPA showing attainment of the ozone standard in Polk and Pottawattomie Counties. Data for the Davenport area have been inconclusive. EPA proposes to approve the redesignations of these counties.

(3) *Sulfur Dioxide (SO_2).*—The only area in Iowa presently designated non-attainment for SO_2 is Julien Township which includes the city of Dubuque. A comment was received from the city health director concerning the designation. The comment indicated the data used for the designation should be discounted because of the location of the monitor and lack of maintenance and calibration. The State of Iowa evaluated the data and determined it was valid. However, additional monitors have been located in the area and recorded no violations of the SO_2 standards since October, 1977. Iowa recommends that Dubuque be redesignated unclassified. EPA will not redesignate a properly designated non-attainment area to unclassified. It can be changed to unclassified only if it is shown that the data used originally is invalid. A non-attainment area can be redesignated attainment only if it is shown that the area does not violate standards. In this case, sufficient data have not been provided to justify redesignation. When eight quarters of data are available, EPA will reevaluate the request and, if necessary, an appropriate redesignation will be proposed. Until such time, Dubuque is still non-attainment for SO_2.

c. Non-Attainment Plan Provisions

The State has submitted plan revisions addressing non-attainment problems in these areas:

Mason City, particulate.
Davenport, particulate.
Cedar Rapids, particulate and ozone.
Des Moines, particulate and carbon monoxide.

The state did not submit plans for the other areas. Instead, the state requested the redesignations discussed above. Non-attainment plans are required as long as these areas are officially designated as non-attainment. At the present time there is no approved plan for these areas.

Section 172 of the Act contains the requirements for non-attainment plan revisions. The following is a listing of the requirements of Section 172 and discussion of how the Iowa plan addresses each issue.

Where the plan submission is deficient with respect to some requirement, it will be discussed in detail under the heading "E. Approvability Issues." Items which are not identified as approvability issues are proposed to be approved as meeting the appropriate requirements.

(1) *Demonstration of Attainment.* Section 172(a)(1) requires the plan to provide for attainment of NAAQS as expeditiously as practicable. Primary standards are to be met no later than December 31, 1982.

The submission contains demonstrations that the primary TSP standards will be attained by 1982 in Des Moines, Cedar Rapids, and Davenport. It also demonstrates attainment by 1982 for CO in Des Moines and ozone in Cedar Rapids. It does not indicate that Mason City will attain the primary TSP standard. The submission does not address attainment of TSP secondary standards, or the 24-hour TSP primary standard. Nor does it address maintenance of standards which is also required. These issues will be discussed in Section E (1).

(2) *Attainment Date Extensions.* Section 172(a)(2) authorizes an extension of the attainment date to not later than 1987 for CO and ozone if the state demonstrates the standards cannot

be met by 1982 despite implementation of reasonably available control measures.

The state of Iowa has demonstrated that the CO and ozone standards will be attained by 1982 and has not requested an extension.

(3) *Public Participation.* Section 172(b)(1) requires the plan to be adopted after reasonable notice and public hearing.

The non-attainment plans were subjects of a public hearing which was announced in several newspapers the week following January 13, 1979, and in the Iowa Administrative Bulletin of February 7, 1979. The hearing was held in Des Moines, Iowa, on March 15, 1979. The plans were formally adopted by the IAQC at a public meeting on June 14, 1979, and were formally submitted to the EPA by the IDEQ on June 22, 1979.

(4) *Reasonably Available Control Measures.* Section 172(b)(2) requires implementation of all reasonably available control measures as expeditiously as practicable. This issue will be discussed in Section E(2).

(5) *Reasonable Further Progress (RFP).* Section 172(b)(3) requires that the state demonstrate it will make reasonable progress toward attaining the standard until such time as the standard is attained, including such emission reductions from existing sources as may be obtained through the implementation, as a minimum, of RACT. The state has demonstrated that it will make RFP for all pollutants in areas for which it has submitted a plan.

(6) *Emission Inventory.* Section 172(b)(4) requires the plan to include a comprehensive, accurate, and current inventory of all sources of each pollutant for which an area is designated non-attainment. It also requires the inventory to be updated as frequently as necessary to assure that RFP is indeed being made and to assure that the standard will be met by the required date.

Iowa has submitted inventories for each area for each non-attainment pollutant. The state has committed to providing annual updates of emission information.

(7) *Emission Growth.* Section 172(b)(5) requires the plan to expressly identify and quantify the emissions, if any, which will be allowed to result from the construction and operation of major new or modified stationary sources in a nonattainment area.

For particulate matter, Iowa has provided for industrial growth by adopting an emission offset rule rather than by providing a margin for growth. The new rule, 400—3.5 *Particulate Matter Emission Offsets,* requires that reductions in existing emissions be obtained for any major new source or major modification in a non-attainment area or any major new source or major modificaiton outside a non-attainment area which affects the area.

The Iowa submission contains no identification or quantification of emissions from major new or modified sources of CO or VOC. Therefore, offsets under Section 173 of the Act will be required for new sources unless the state can identify and quantify growth margins for carbon monoxide and ozone. This will be discussed in Section E(3).

(8) *Permit Requirements.* Section 172(b)(6) requires plans to have a permit program for the construction and operation of new or modified major stationary sources in accordance with section 173 (relating to permit requirements).

The particulate offset rule cited in C(7), above, contains the provisions required in section 173 for particulate non-attainment areas. In addition to requiring offsets, it specifies that the particulate emission reductions must be greater than the new emissions in a secondary non-attainment area and must be 25 percent greater than the new emissions in a primary non-attainment area. The rule requires that all other sources owned or operated by the applicant in Iowa shall be either in compliance with applicable emission standards or on a compliance schedule approved by the Air Quality Commission. It also details ways of obtaining offsets, authorizes banking of excess offsets, and requires that the new source emit at the lowest achievable emission rate. This requirements, as it pertains to carbon monoxide and ozone, will be discussed in Section E(4).

(9) *Resources.* Section 172(b)(7) requires the state to identify and commit the financial and manpower resources necessary to carry out the plan provision. The state did not specifically identify the resources to be committed. This issue will be discussed in Section E (5).

(10) *Schedules.* Section 172(b)(8) requires emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section. The emission limits are discussed under C (4) and E (2).

This revision package does not contain schedules of compliance for particulate sources because the state maintains that all such sources are in compliance with existing state regulations which require measures that represent RACT be applied. It does not contain them for sources of carbon monoxide and ozone.

The state submission contains a regulation requiring more stringent emission limits for traditional sources of particulate emissions. The emission inventory projections to 1982 do show some reduction from some sources. However, there are no compliance schedules committing the sources to implement the shown reductions. This means that all affected sources must be in compliance on the effective date of the regulation, January 1, 1980. Sources that are not in compliance on the effective date of the regulation, January 1, 1980. Sources that are not in compliance on January 1, 1980, will be subject to monetary noncompliance penalties under section 120 of the Act.

In addition, the plan must contain other measures as necessary. The state has submitted some commitments for future activities. These are discussed in E (6).

(11) *Public, Local Government and State Legislative involvement.* Section 172(b)(9), requires evidence of involvement and consultation of the public, local government and state legislature in the planning process and an identification and analysis of the air quality health, welfare, economic, energy and social effects of the revision and a summary of public comments on the analysis.

The Iowa plan contains information on public hearings, cooperative agreements between agencies and legislative involvement. This is discussed in Section E (7).

(12) *Commitments.* Section 172(b)(10) requires written evidence that all necessary measures have been adopted as legal requirements and that the agencies responsible are committed to their implementation and enforcement. When the deficiencies in the plan are corrected, the state will have to submit the appropriate evidence for the new requirements.

(13) *Delayed Attainment Dates and 1982 Submission.* Section 172(b)(11) and section 172(c) contain requirements for plans with attainment dates after 1982. These sections do not apply to the Iowa SIP.

Issues and Proposed Action: A number of issues were identified above as issues which might interfere with plan approval. These will be discussed individually in Section E, Approvability Issues, and each one will have its own proposed action. For items which were discussed above and which are not specifically identified as approvability issues, EPA is proposing to approve those elements as meeting the requirements of the Clean Air Act.

D. Other Provisions

This section discusses each requirement, other than those in Part D, that a State Implementation Plan must meet in order to be fully approvable under the Clean Air Act as amended in 1977.

(1) *New source review.* Section 110(a)(2)(D) requires the plan to include a program for enforcement of limitations on emissions due to modification, construction or operation of stationary sources including a permit program for new major sources. This permit, described in Section 110(a)(4), requires, among other things, a preconstruction review of the proposed source.

Although the state of Iowa has a permit program, it does not meet the requirements of this section in that there is no authority to require review of the location of a source prior to the commencement of construction. This issue will be discussed in Section E (8).

(2) *Interstate air pollution.* Section 110(a)(2)(E)(i) requires the SIP to contain provisions prohibiting stationary sources within that state from causing violations of standards, significant deterioration of air quality, or interfere with measures to protect visibility in another state. It also requires the plan to contain provisions insuring compliance with the requirements of section 126. Section 126 requires each plan to contain requirements for each major proposed new source to provide written notice to all nearby states which may be affected at least sixty days prior to the day on which commencement of construction is to be permitted.

The Iowa submission does not identify interstate issues. This is an issue which will be discussed in Section E (9).

(3) *State boards.* Section 128 places requirements concerning conflicts of interest on member of state bodies which approve permits or enforcement orders. The state submission does not address section 128. This will be discussed in detail in Section E (10).

(4) *Permit fees.* Section 110(a)(2)(K) requires a permit fee for the issuing of any permit required under the Act. The plan does not address this issue. Permit fees will be discussed in Section E (11).

(5) *Non-compliance penalties.* Section 120 requires sources not in compliance with applicable emission limits to pay a penalty based on the economic benefits of not installing control equipment and provides that the state may assess the penalty if it has an approved plan to do so. The Iowa SIP does not address this issue. This is not an approvability issue since it is not required that the state assess these penalties. For sources in Iowa, the federal government will assess and collect any non-compliance penalties.

(6) *Consultation.* Section 121 of the Act requires the SIP to contain a satisfactory process of consultation between the state and various officials affected by the SIP. The state has not provided the description of the process used, but it has provided evidence of extensive consultation with appropriate officials. This issue is discussed further in E (12).

(7) *Stack heights.* Section 123 of the Act requires that the degrees of emissions limitation required for control of any air pollution source shall not be affected by so much of a stack height exceeding Good Engineering Practice or any other dispersion technique.

The state has not submitted any information on this at this time. This will be discussed in Section E (13).

(8) *Public notification.* Section 127 states that each state plan shall contain measures to notify the public of instances in which health-related standards were exceeded. The state submission does not contain any information in this area. The state's compliance with section 127 will be discussed in section E (14).

(9) *Prevention of significant deterioration (PSD).* Section 161 requires each implementation plan to contain emission limitations and other measures to prevent significant deterioration of air quality in each region which is designated attainment or unclassified under section 107 of the Act.

The state does not have adequate statutory authority to pursue the PSD program. This is discussed in E (15).

(10) *Excess emissions.* The SIP does not define all excess emissions as violations. This is discussed in E (16).

E. Approvability Issues

This section contains a discussion of the issues identified above which could affect approval of the Iowa SIP. The discussion includes a general description of the deficiency or issue and possible corrective actions. This section also sets forth alternative approaches to final rulemaking with respect to these issues. In some cases, EPA proposes to conditionally approve the plan where there are minor deficiencies with the requirement that the state will submit corrections by specified deadlines. This notice solicits comment on what items should be conditionally approved and on what deadlines should apply. A conditional approval will mean that the restrictions on new major source construction will not apply unless the state fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

(1) *Demonstration of attainment.* The Iowa submission generally provides for attainment of standards by 1982. There are four issues of importance in the Iowa plan relating to attainment of the standards for TSP.

(a) *Attainment of annual primary standard.* The control strategy demonstration indicates that reasonable further progress will be made and the primary annual standard attained by 1982 except for Mason City. For Mason City there appear to be some errors in the presentation of the control strategy demonstration. The state has been notified of this problem and has indicated that it can be readily corrected. Therefore, EPA has requested the state to submit additional information concerning the attainment demonstration.

Proposed action: The EPA proposes to approve the attainment demonstration with the condition that additional supporting information be submitted by January 1, 1980.

(b) *Attainment of primary 24 hour standard.* The Iowa submission is directed toward attainment of the primary annual standard only. The State has conducted a review of minitoring data to determine if the annual average or the 24 hour average was more stringent. The plan states that the 24 hour average was violated only when the annual primary standard was violated. Therefore, the State concluded that the annual primary standard is more stringent than the 24 hour primary standard. The State intends to perform further analyses of short term standard attainment after it has selected an appropriate short term air quality model. EPA believes that the State should either demonstrate that the annual standard is indeed more stringent than the 24 hour or it should demonstrate that the control measures selected will also achieve the 24 hour standard. Proposed action: EPA proposes to approve the plan for attainment of the 24 hour primary standard on the condition that the additional material discussed above be submitted. EPA proposes to require the State to submit its already completed comparison of standards by October 1, 1979. If it is necessary to conduct additional modeling, the demonstration of 24-hour standard attainment must be submitted by January 1, 1980.

(c) *Attainment of secondary standards.* The submission states that attainment of the secondary standard will be accomplished through an allowance for rural fugitive dust. As discussed above, the EPA fugitive dust

policy does not allow for discounting of non-traditional emissions in non-rural areas or areas of significant industrial emissions. Therefore, the contention that the plan need not address secondary attainment is not approvable.

The plan states that non-fugitive emissions from traditional sources are controlled by State regulations to a level representing RACT in all areas of the State including the secondary non-attainment areas. The plan also states that application of reasonably available control measures will not be sufficient to demonstrate attainment of the secondary standard. Since the State has committed to conducting additional studies to determine what measures can be used to attain primary standards, EPA believes it is reasonable to require that the same measures be implemented in the secondary non-attainment areas.

Proposed action: Under section 110(b) the Administrator may, whenever he determines necessary, extend the period for submission of any plan which implements a secondary standard for a period not to exceed 18 months from the date otherwise required. This plan submission was originally required January 1, 1979. The EPA proposes to extend the submission date for a plan for attainment of particulate standards in all secondary non-attainment areas to July 1, 1980.

(d) *Maintenance of standards.* The plan states that maintenance of standards would be accomplished through the construction permit program. However the plan indicates the major danger to the standards is not from traditional sources which would require permits but from non-traditional fugitive sources. The two regulations submitted in the plan apply only in non-attainment areas. In fact the revision to the fugitive dust regulation applies only in primary non-attainment areas. The language of these regulations could be construed such that they are no longer in force once an area has been designated attainment. If the regulations are in fact needed to achieve attainment then they are also necessary to assure continued compliance with the standards.

Proposed action: The EPA proposes to approve the Iowa plan with respect to maintenance of standards on the condition that the state submit a satisfactory demonstration of maintenance containing whatever measures are necessary to assure maintenance, by April 1, 1980.

(2) *Reasonably available control measures.* (a) *Particulate Matter.* The state has submitted one regulation reflecting reasonably available control technology (RACT) as applied to fugitive sources of particulate matter in primary non-attainment areas and has certified that existing state regulations represent RACT on existing stationary sources.

Proposed action: EPA proposes approval with respect to RACT for particulate sources in non-attainment areas.

(b) *Carbon monoxide (CO).* The state has not submitted RACT regulations for stationary CO sources. The emission inventory indicates that there are probably no stationary sources of CO to which RACT can be applied. If this is the case the state should certify this as such. If not, it must adopt regulations to control stationary sources.

Proposed action: EPA proposes approval once Iowa certifies there are no major sources to be controlled.

(c) *Volatile organic compounds (VOC).* Plans for ozone non-attainment areas must include regulations requiring RACT on those sources of VOC for which EPA has issued a control technique guideline (CTG) prior to January 1, 1978, and a commitment to adopt RACT for other categories in the future. For areas under 200,000 population, EPA believes RACT is mandatory only for large stationary sources (over 100 tons per year). The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. There are 11 categories for which CTGs were issued prior to January 1, 1978. Although the Iowa submission contains no RACT requirements, EPA proposes conditional approval, because the plan demonstrates expeditious attainment before 1982 even without the RACT requirements. The plan demonstrates that 11 percent reductions in VOC emissions are needed for attainment, 14 percent reductions are expected from control of motor vehicle emissions under the Federal Motor Vehicle Control Program, and the RACT requirements now due would result in only a minor additional reduction. RACT is needed despite the demonstration of attainment, because the demonstration does not employ photochemical dispersion modeling. *See* 44 FR 20376 col. 3 (April 4, 1979). However, the plan seems sufficiently complete now to warrant conditional approval.

EPA proposes to fix a deadline of July 1, 1980, for the State to submit RACT requirements for cutback asphalt and degreasing. This should allow time for the State to complete adoption of enabling legislation, which has been enacted by one house and is pending before the other house. For other RACT categories for which requirements are now due, the State should certify by October 1, 1979, that there are no large sources in Linn County.

Proposed action: EPA proposes conditional approval if the State provides assurances that regulations will be adopted by July 1, 1980, requiring RACT on cutback asphalt, degreasing and other categories for which RACT is required prior to July 1, 1980; and that the State certify by October 1, 1979, that there are no large sources in Linn County in categories for which the regulations are not adopted.

(3) *Emission Growth.* The State submission does not identify emission growth for CO or VOC. The State has indicated that projections through 1982 have been made but were omitted from the SIP. EPA has requested this information.

Proposed action: EPA proposes approval if the State submits the information described above.

(4) *Permit Requirements.* As noted in C (8), the State submission does not contain permit regulations for CO or VOC. It states there is no such regulation for VOC because there are no emission standards for VOC. It does not address this issue for CO. EPA cannot approve the Iowa Plan as generally meeting the requirements of Section 173 without regulations requiring offsets (or accommodation) in the non-attainment area, a requirement for the lowest achievable emission rate for new sources and a certification by owners of new sources that all existing sources are in compliance.

EPA is considering whether or not it may approve submission conditionally, with the requirement that the State submit the necessary regulations by a certain date. A date of January 1, 1980 would be possible if the State already has statutory authority. If, as the State has indicated, it is necessary to secure additional statutory authority, then a date of July 1, 1980, would be more appropriate.

EPA could also disapprove the SIP. If this is necessary, new source construction would be prohibited under section 110(a)(2)(I) of the Act. This growth restriction is explained in detail in the **Federal Register** of July 2, 1979, (44 FR 38471). The growth restriction went into effect automatically on July 1, 1979, and remains in effect until the SIP is approved or conditionally approved.

Before EPA could conditionally approve, the State would have to certify that new sources could be permitted only if the SIP were revised specifically so the new source would meet the requirements of Section 173. Each such revision would have to be approved by EPA before the source could commence construction. This cumbersome system

could mean that new projects would be delayed a year or more while the necessary plan revision and supporting materials were developed, submitted, evaluated and approved.

Proposed action: EPA does not make a specific proposal on permit requirements for VOC and CO. EPA requests comments on this issue. The final decision will be based on comments received and on a detailed evaluation of the situation.

(5) *Resources.* The submission commits the DEQ to implementation of the plan. There is an appendix containing commitments made in the annual agreement between EPA and the State regarding air programs. EPA believes this qualifies as a commitment of financial and manpower resources, but not as a specific identification of such resources as required by section 172(b)(7). EPA has notified the State of this deficiency and expects that an adequate identification of resources will be submitted before the final rulemaking action.

Proposed action: EPA proposes to approve the Iowa plan as meeting the requirements of Section 172(b)(7) if the state submits the information described above.

(6) *Schedules.* The state submission contains commitments for the implementation of future control measures by state or local authorities.

As discussed above, the plan does not contain a commitment for adoption of RACT regulations for VOC sources. It does contain commitments to conduct studies and implement measures for CO and TSP. It does not, however, detail what measures are to be studied or predict which will be implemented. No schedule of when measures will be studied, adopted and submitted to EPA is provided for CO. EPA has requested this information be submitted. The information on particulate studies is expected to be submitted before final action is taken on the state submission. Information on CO is expected to be submitted in the application for grant support under section 175 of the Act which is under preparation by the Central Iowa Regional Association of Local Governments. This information is also expected to be submitted before final approval of the state plan submission.

Proposed action: The EPA proposes to approve the Iowa plan conditioned on submission of the above information by October 1, 1979.

(7) *Public, Local Government and State Legislative Involvement.* The state submission included some information related to the requirements of section 172(b)(9). It did not specifically address the identification and analysis of the effects of the plan and its alternatives. The state has been notified of this deficiency and will be able to remedy it prior to EPA's final rulemaking action.

Proposed action: EPA proposes to approve the Iowa SIP as meeting the requirements of section 172(b)(9) if the state submits the information described above.

(8) *New Source Review.* The existing new source procedures provide for review of plans and specifications for the installation of emitting or emission control equipment. The review is conducted at the time the process equipment or air pollution controls are ready to be installed. In some cases this allows construction to commence on new sources without a review by the state. This is inadequate to provide the review of the location of a proposed source as required by section 110(a)(2)(D). The state asserts that it does not have the legal authority to conduct the required review. The bill now before the legislature does not contain adequate authority to satisfy this requirement.

Proposed action: EPA does not propose any approval or disapproval action at this time. In accordance with the requirements of section 110(a)(2)(H) of the Act and 40 CFR 51.6, EPA proposes a finding of deficiency and further proposes to require the state to correct this deficiency by submitting legally enforceable preconstruction review requirements by July 1, 1980. EPA solicits comment on whether or not the state permit requirements are deficient, the proposed corrective action, and the proposed deadline for submission of adequate requirements.

(9) *Interstate Pollution.* Section 110(a)(2)(E) issues were not addressed in the state submission. Additional information has been requested from the state regarding sources which may interfere with attainment and maintenance of standards in another state or with measures in another state's plan to prevent significant deterioration of air quality, and regarding notification to other states of new sources.

Proposed action: None at this time.

(10) *State Boards.* Section 128 requires that any existing state board which is empowered to approve or enforce permits must have a majority of members who represent the public interest. Members with any potential conflict of interest must disclose that fact. The authority to implement this requirement is pending in the legislature.

Proposed action: None at this time.

(11) *Permit Fees.* The State of Iowa does not have the authority to charge for permits as required by section 110(a)(2)(K). This authority is contained in pending legislation.

Proposed action: None at this time.

(12) *Consultation.* Section 121 requires a state to provide a satisfactory process for consultation with various officials and federal land managers on the development of the SIP. The submittal does not indicate any contact with federal land managers, nor does it provide for a continuing consultation process.

Proposed action: None at this time. EPA promulgated regulations governing consultation on June 18, 1979 (44 FR 35176). The SIP revision complying with these regulations is due December 18, 1979.

(13) *Stack Heights.* The state did not identify any method to limit credit for the use of stacks taller than good engineering practice or other dispersion techniques.

Proposed action: No action is proposed.

(14) *Public Notification.* The state has been advised of its responsibilities under section 127. Iowa operates a statewide air monitoring network and reports to the public using a modified Pollutant Standard Index. EPA believes the state can demonstrate it meets Section 127.

Proposed action: EPA proposes approval if the state submits the above demonstration.

(15) *Prevention of Significant Deterioration.* The major problem with implementing section 161 is that there is no statutory authority to prevent the construction of new stationary sources of air pollution. This was discussed in section E(6) above.

Proposed action: None at this time. Until the state has approved PSD procedures, source owners must apply to EPA for permission to construct new facilities.

(16) *Excess Emissions.* The plan commits to a revision of the state rule regarding excess emissions. The state has been notified previously that its rule is not approvable unless all emissions exceeding the applicable limits are considered violations. The state has committed to propose a rule by October 1979 and to formally submit the adopted rule by July 1980.

Proposed action: EPA does not propose to take any action until the regulation described above is submitted.

F. Conclusion

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether or not the amendments meet the requirements of Part D and section

110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Deficiencies in the state plan that are not corrected may be cause for disapproval of the proposed revisions to the SIP. However, the state is preparing revisions that may rectify plan deficiencies.

The measures proposed today, if formally approved by EPA, will be in addition to, and not in lieu of existing state regulations. The present emission control regulations will remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while it is moving toward compliance with the new regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reaons, the pre-exisiting regulations will be applicable and enforceable.

This notice of proposed rulemaking is issued to advise the public of EPA's intended action on the Iowa SIP submission. EPA requests comments on all aspects of the Iowa SIP, not just those specifically identified above.

Comments received within 30 days will be considered in EPA's final decision on the SIP. EPA believes the available period for comments is adequate because:

(1) the SIP has been available for inspection and comment since July 17, 1979, so that the total comment period is more than 60 days; and

(2) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979, on that portion of the SIP that addresses the requirements of Part D.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has determined that this is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

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

Dated: August 13, 1979.

Kathleen Q. Camin,

Regional Administrator.

[FR Doc. 79-27995 Filed 9-6-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Parts 52]

[FRL 1313-6]

Proposed Revision to Idaho State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed Rulemaking.

SUMMARY: On July 10, 1979 EPA published in the **Federal Register** and Advanced Notice of Proposed Rulemaking (44 FR 40360-61) describing the settlement reached between the Bunker Hill Company and EPA on June 11, 1979 and announcing its availability for inspection. EPA is today proposing as a revision to the Idaho State Implementation Plan (SIP), the Interim Regulation contained in that Settlement Agreement.

DATE: Comments on the proposed revision will be accepted by EPA until October 9, 1979.

ADDRESSES: The Settlement Agreement and Interim Regulation and Docket No. 10A-79-4, containing material relevant to this action may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying. The docket is located at the following EPA offices: Air Programs Branch M/S 629, Docket No. 10A-79-4 Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Central Docket Section, Room WSM-2903B, Environmental Protection Agency, 401 M. Street, SW., Washington, D.C. 20460. Send comments to: Laurie Kral, 1200 Sixth Avenue, Seattle, Washington 98101, Mail Stop 629.

FOR FURTHER INFORMATION CONTACT: George C. Hofer, Chief, Technical Support and Special Projects Section, Air Programs Branch, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Telephone No. (206) 442-1125, (FTS) 399-1125.

SUPPLEMENTARY INFORMATION:

Background

On January 1972, the State of Idaho submitted a SIP to EPA in accordance with Section 110 of the Clean Air Act. On May 31, 1972 (37 FR 10842), EPA approved the SIP except for the sulfur dioxide (SO_2) control strategy and compliance schedule sections. On October 7, 1974 (39 FR 36018), EPA proposed regulations for the control of sulfur oxides from the Bunker Hill complex requiring 96 percent permanent control of SO_2. Thereafter, on January 10, 1975, the State of Idaho submitted to EPA, as a proposed revision to the SIP, a regulation (Regulation S) for the control of SO_2 at the Bunker Hill complex. On April 10, 1975 EPA proposed to disapprove the Idaho submission on the grounds that it did not meet the requirements of Section 110 of the Clean Air Act and 40 CFR 51.13. On November 19 1975, EPA approved portions of the State of Idaho's Regulation S including the ultimate emission limitation, disapproved other portions of Regulation S including the interim emission limitation, and promulgated federal regulations to replace the disapproved portions (40 FR 53584). Thereafter, the Bunker Hill Company challenged EPA's final rulemaking action in this matter.

The United States Court of Appeals for the Ninth Circuit issued its opinion [1] on July 5, 1977 and remanded the matter back to EPA for further administrative proceedings.[1] The Court stated that a more extensive administrative record was needed to show that the requirements promulgated by EPA dealing the with interim emission limitation were technologically feasible.

In response to a request by Bunker Hill EPA promulgated regulations on November 8, 1977 defining requirements pertaining to excess emissions caused by startup, shutdown or malfunction of equipment (42 FR 58171). On November 23, 1977 Bunker Hill challenged EPA's rulemaking on excess emissions and EPA consented to consolidate the November 8, 1977 regulations into the remand of the November 19, 1975 regulations.

During the period of time from December 28, 1977 through June 11, 1979, EPA and the Bunker Hill Company engaged in extensive document discovery, document production, and the development of written testimony for the remand proceedings. Concurrently, EPA and the Bunker Hill Company entered into a preliminary understanding which set forth, in principle, the areas of agreement between EPA and the Bunker Hill Company. On June 11, 1979, representatives of the Bunker Hill Company and EPA executed a Settlement Agreement and Interim Regulation which is the basis for this proposed rulemaking.

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[1] Bunker Hill Company v. EPA, 572 F.2d 1288 (9th Cir. 1977), hearing denied, No. 75-3670 (December 28, 1977).

The regulations promulgated by EPA in November 1975 called for an interim overall plant SO_2 emission limit of 680 tons per week (approximately 82% control), acid plant tailgas limits of 2,600 parts per million (ppm) (6-hour average) and a prohibition of bypassing strong gas streams around the acid plant and to the atmosphere. In technical support document for that rulemaking EPA suggested that supplemental SO_2 injection techniques using a sulfur combustion furnace could be utilized to remedy certain acid plant design deficiencies to enable Bunker Hill to meet the SO_2 control requirements. The sulfur combustion furnace was not a regulatory requirement but rather was suggested as on possible remedy to the SO_2 control problems at Bunker Hill.

As a result of the remand proceedings EPA initiated a complete re-evaluation of the remanded SO_2 control regulation. The purpose of the review was to demonstrate that either the existing regulation or a more stringent regulation was technically feasible and also to present numerous alternative methods for meeting SO_2 control requirements.

The review included two major segments—an analysis of the Bunker Hill operation and an evaluation of other non-ferrous smelters and acid plants where a high degree of SO_2 capture has been achieved. In addition, the cost and feasibility of SO_2 control alternatives were examined. The technical material supporting this proposed rulemaking is summarized in a report entitled "Summary of Technical Material Supporting EPA Rules Governing Sulfur Dioxide Capture at Bunker Hill", August 1979.

In brief, if EPA were to carry out the remand, it would be the Agency's contention that the technical information gathered during the remand proceedings affirms the technological feasibility of the original November 19, 1975 and November 8, 1977 EPA rulemaking and perhaps a more restrictive degree of control. However, as a result of the 1977 Clean Air Act Amendment, these questions are to be decided under section 119 of the Act. It is the Administrator's judgment on the basis of information submitted by Bunker Hill during the remand proceedings that bunker Hill will probably be eligible for a primary Nonferrous Smelter Order (NSO) under section 119 when final national NSO rules are promulgated.

Implementation of the Settlement Agreement

In accordance with the Settlement Agreement, EPA is today proposing the regulatory portion of the Settlement Agreement (Section II) as a revision to the Idaho State Implementation Plan (42 CFR Part 52, Subpart N). Information gathered and testimony prepared by EPA as well as other related materials which have been previously prepared for the remand proceedings and settlement negotiations are contained in the docket and form the basis for the provisions of the Interim Regulation.

The Settlement Agreement provides, in brief, that EPA will ultimately issue a first NSO under section 119 of the Act to Bunker Hill. The Agreement specifies the contents of the NSO, and provides procedures for its issuance. Because EPA has not yet promulgated final national rules governing the NSO program, the Agreement calls for the terms of the NSO to be implemented in the interim through a revision of the Idaho SIP, through appropriate rulemaking procedures.

It should be noted that EPA would ordinarily be legally prohibited by section 110, 123, and 302 of the Act from allowing the use of unauthorized dispersion techniques in a state implementation plan. However, the Administrator believes that this situation presents unique circumstances under which the provisions of the savings clause (section 406) of the Clean Air Act Amendments of 1977 (Pub. L. 95–95) permit the proposed interim amendment of the existing Idaho SIP. The Administrator also believes that after promulgation of the final national NSO rules, provisions allowing the use of dispersion techniques must be removed from the SIP and those provisions then be converted into an NSO if Bunker Hill is eligible.

The Agreement also provides that Bunker Hill will not challenge the first NSO if it contains the same terms as specified by the Agreement. EPA has agreed to treat the detailed technical and economic information submitted by Bunker Hill during the remand proceeding as Bunker Hill's NSO application. That material contains substantially the same information EPA has proposed to require of all NSO applicants. The provisions of the Interim Regulation and the first NSO issued to them will govern the obligation of Bunker Hill with respect to interim sulfur dioxide (SO_2) controls until the January 1, 1983 expiration date of the first NSO.

The Regulation

Emission Limits. The proposed regulation establishes SO_2 emission limits which bunker Hill must meet by June 11, 1980. These limits include an overall plant SO_2 emission limit from the two tall stacks of 625 tons per running 7-days. One exceedence of the 7-day limit is allowed per calendar quarter. The overall limit includes acid plant bypass emissions and excess emissions caused by start-up, shutdown, maintenance and malfunction. Acid plant tailgas SO_2 emissions are limited to 2600 ppm averaged over a running 6-hour period. All emissions are to be measured by approved continuous monitoring equipment which meet specified criteria.

Excess Emissions. Bypass of process exhaust strong gas streams around an acid plant is excused but only under five narrowly defined situations. The regulation specifies the amount of time bypass can occur following process or acid plant breakdown. It also specifies the amount of time (in terms of operating parameters) that process exhaust gas can bypass the acid plant during acid plant restart. After June 11, 1980 and except as described below, Bunker Hill is prohibited from continuing to operate its processes while the applicable acid plant is shutdown for the annual maintenance period.

Annual Acid Plant Maintenance Offset. Continued process operation while an acid plant is shutdown for annual maintenance is allowed to occur for up to 14 days per year provided an offset of emissions is achieved. An interim method is provided to establish the offset until the new SO_2 control system is on line. Effective June 11, 1982 for every ton of SO_2 that is bypassed during the annual maintenance period Bunker Hill must, during the course of the year, capture an additional ton of SO_2. Such additional SO_2 must be removed from either the sinter machine weak stream or the blast furnace SO_2 stream—neither of which are currently controlled.

Fugitive SO_2 Emission Program. The Bunker Hill Company is required to install a system to eliminate over 90 percent of the blast furnace upset conditions. This system should result in the capture of approximately 21 tons per week of fugitive SO_2 emissions. those emissions will be released to the atmosphere via the main stack. If the blast furnace fugitive emission program captured less than 21 tons per week, the overall plant SO_2 emission limit will then be reduced by that portion of the 21 ton per week which is not captured.

Research and Development Program. The proposed regulation requires the Company to immediately commence a continuous research and development program. Bunker Hill is, however, provided with the option of either employing a full scale or a reduced scale program. Successful implementation of the full scale program would satisfy the acid plant maintenance offset provision.

If the Company choses to implement the reduced scale program, the smelting processes must be shutdown while the applicable acid plant is shutdown during the annual acid plant maintenance period.

The reduced scale program requires that by February 11, 1982 an FGD system must be placed into service to treat a portion of either the sinter machine weak SO_2 stream or the blast furnace exhaust gas. Under the terms of the proposed regulation, the reduced scale program must have a minimum volume operating capacity of 5000 scfm, 95% SO_2 capture efficiency, 95% on-line availability, continuous measurement instrumentation and must be automatically controlled.

Supplementary Control System. The Company is allowed to employ SCS to meet NAAQS using an SCS implementation plan and operating manual approved by EPA. SCS program deficiencies defined by an EPA study entitled "Review of the SCS Used by the Bunker Hill Company-Kellogg, Idaho" (EPA 330/2-79-001) must be corrected.

A study must also be performed by Bunker Hill to demonstrate that ambient SO_2 monitors are located in all areas of maximum expected ambient SO_2 concentrations. Alternative techniques are allowed where air quality in a monitored location is used in conjunction with modelling techniques to predict SO_2 concentrations elsewhere. The modelling techniques, however, must be calibrated using temporary SO_2 monitors. A compliance schedule specifies when the study is to be complete, when a revised SCS plan and operational manual are to be submitted and when the new SO_2 monitors are to be placed into service. Until such time that the Administrator approves the new SCS program, the existing SCS and SO_2 monitors will be used on an interim basis to assure attainment of NAAQS.

Solicitation of Comments

The Agency at this time actively solicits comments on all aspects of the proposed regulation. The Administrator does not intend to hold a public hearing on these proposed regulations unless requested by third parties to do so.

Authority: Secs. 110, 119, and 301 of the Clean Air Act as amended (42 USC 7410, 7419, and 7601), and section 406 of Pub. L. No. 95-95 (August 7, 1977).

Dated: August 30, 1979.

L. Edwin Coats,

Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart N—Idaho

Section 52.676, paragraphs (a)(2) and (b) are revised as set forth below and paragraph (b) is also amended by adding an Appendix A as set forth below:

§ 52.676 Control strategy: Sulfur oxides—Eastern Washington-Northern Idaho Interstate Region.

(a)

* * * * *

(2) Regulation S of the "Rules and Regulations for the Control of Air Pollution in Idaho" is approved with the exception of Section IV. Section IV of Regulation S of the "Rules and Regulations for the Control of Air Pollution in Idaho" is disapproved and is replaced by paragraph (b) of this section as shown below.

(b) *Interim Regulation for control of sulfur dioxide (SO_2) emissions from the Bunker Hill Company lead and zinc smelter located in Shoshone County in the Idaho portion of the Eastern Washington-Northern Idaho Interstate Region.*

(1) *SO_2 emission limitations.* Effective on June 11, 1980, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(1) of this section in regard to the capture of SO_2. The requirements governing SO_2 gas stream bypass during the annual acid plant maintenance period as provided by paragraphs (b)(5) and (b)(6) of this section shall become effective on June 11, 1979.

(i) The owner(s) or operator(s) of the smelter subject to paragraph (b)(1) of this section shall not cause or allow the discharge of gases in excess of:

(A) 2600 parts per million (by volume) SO_2 averaged over any hourly running 6-hour averaging period, from any sulfuric acid plant as determined by continuous monitoring equipment specified in paragraph (b)(1)(iv) of this section and in accordance with the compliance procedures specified in paragraph (b)(4)(iii) of this section. In determining violations of the 6-hour averaging period, no two violations shall contain any common hourly data points; and

(B) 567,000 kg (625 tons) SO_2 over a daily (midnight to midnight) running 7-day period as determined by continuous monitoring equipment[2] specified in paragraph (b)(1)(iv) of this section and in accordance with the compliance procedures specified in paragraph (b)(4)(iii) of this section. Such limitation is plant wide and shall apply to the sum total of SO_2 emissions from the lead smelter main stack and the zinc plant main stack and shall include all excess emissions as defined in paragraph (b)(2)(i) of this section. Except as provided in paragraph (b)(6)(ii) of this section the emission limitation shall not be exceeded more than once per three (3) month calendar quarter, e.g., January, February and March. Such single excused emission shall be the first exceedence of the 7-day limit in the three month quarterly period. In determining violations of the 7-day limit, no two violations shall contain any common daily (midnight-to-midnight) data points. As provided in Appendix A to this regulation and upon notification by the Enforcement Division Director of the EPA-Region X the plant wide emission limit shall be decreased to not less than 548,000 kg (604 tons) SO_2.

(ii) *Bypass prohibition.* Except as provided in paragraph (b)(2)(ii) below, all SO_2 gas streams discharged from any zinc plant roaster and from the strong gas exit point on the input end of the lead smelter sinter machine shall at all times be processed in an SO_2 removal facility. The owner(s) or operator(s) shall not cause or allow these SO_2 gas streams to be discharged to the atmosphere.

(iii) *Circumvention.* Other than for temporary process control or to temporarily prevent significant equipment damage, dilution air or other extraneous gases shall not be allowed to enter or combine with any process gas normally treated by an SO_2 removal facility or with any acid plant tailgas prior to SO_2 concentration or flow measurement where the purposes of such combination would be to:

(A) In other than the lead smelter or zinc plant main stacks decrease the concentration of SO_2 in such streams;

(B) Otherwise adversely effect the operation of any SO_2 removal system, SO_2 concentration measurement device or gas flow measurement device; and

(C) Decrease the concentration of SO_2 in gases exhausted from the sinter machine and zinc roasters which will have the effect of circumventing the requirements of paragraph (b)(2)(ii) of this section. The owner(s) or operator(s) must promptly inform the Administrator of any substantial changes in process gas flow which may affect the performance of any SO_2 removal facility or measurement device, regardless of the purpose for any such change.

(iv) *Continuous Monitoring.* The owner(s) or operator(s) shall install and calibrate, and shall thereafter maintain, operate and periodically test measurement systems for continuously monitoring and recording SO_2 emission concentrations, gas volumetric flow

[2] The owner(s) or operator(s) shall have the right in any enforcement proceeding to raise the issue of the accuracy of continuous monitoring instruments.

rates and gas flow indication in accordance with paragraph (b)(4)(ii) of this section for the monitoring equipment listed and at the following locations:

(A) Continuously operated SO_2 emission concentration and gas volumetric flow rate monitors and recorders located immediately downstream of each acid plant such that the measurement system measures only the tailgas from one acid plant;

(B) Continuously operated SO_2 concentration and gas volumetric flow rate monitors and recorders located in the zinc plant main stack;

(C) Continuously operated SO_2 concentration and gas volumetric flow rate monitors and recorders located in the lead smelter main stack and the lead smelter acid plant (upstream of the acid plant converter);

(D) Continuously operated gas flow indicating devices which will indicate and record the presence of gas flow in any duct or outlet from the sinter machine where SO_2 gas streams normally treated in an SO_2 removal facility may be bypassed around such facility and be routed to the atmosphere;

(E) Continuously operated gas flow indicating devices which will indicate and record the presence of gas flow in each of the individual five ducts receiving the bypass exhaust gas from zinc roasters #1 through #5. Each device must be located to monitor the bypass from only one roaster;

(F) Continuously operated gas flow indicating devices which will indicate and record the presence of gas flow in any duct or outlet where a single zinc roaster or combination of zinc roasters exhaust gas streams may be bypassed around an acid plant and routed to the atmosphere; and

(G) Based on a filing that the monitoring equipment specified herein is reasonably deemed to be inadequate to provide for effective regulatory compliance the Administrator may require the owner(s) or operator(s) to install and continuously operate gas volumetric flow rate monitor(s) and recorder(s) in any duct or outlet where exhaust gas may by bypassed around the acid plant(s) and routed to the atmosphere. In the event that such a finding is made by the Administrator, the owner(s) or operator(s) agree to install and operate such continuous monitors on or before sixty (60) days after the owner(s) or operator(s) receive such written notification by the Enforcement Division Director of Region X–EPA.

(v) *Continuous process monitoring.* The owner(s) or operator(s) shall install and calibrate, and shall thereafter maintain, operate and periodically test measurement systems for continuously monitoring and recording process parameters for the monitoring equipment listed and at the following locations:

(A) Continuous temperature monitors located to measure and record the inlet gas temperature at the first and third catalyst beds of each sulfuric acid plant;

(B) Continuously operated monitors which will detect and record the commencement and cessation of concentrate feed entering each zinc roaster. The recorded data from such monitors shall be printed on the same chart as used to record bypass gas flow in paragraph (b)(l)(iv)(E) and (F) of this section from each individual zinc roaster; and

(C) Continuously operated monitor which will detect and record the commencement and cessation of concentrate feed entering the sinter machine. The recorded data from such monitor shall be printed on the same chart as used to record bypass gas flow in paragraph (b)(l)(iv)(D) of this section from the sinter machine; and

(vi) *Fugitive SO_2 emissions.* The owner(s) or operator(s) shall utilize best engineering techniques to capture and vent such fugitive SO_2 gases through stacks serving the facility. Such techniques shall include but not be limited to:

(A) Maintaining and operating all ducts, flues and stacks in a leak-free condition;

(B) Maintaining and operating all process equipment and gas collection systems in such a fashion that out-leakage of SO_2 gases will be prevented to the maximum extent possible;

(C) Instituting a program to reduce the fugitive emissions from the zinc roasters by reducing the frequency of positive pressure surges in the zinc roasters. This will be accompanied by component replacement, new fans, better operating practices, or other improvements to the integrity of the gas collection system as necessary to attain the Occupational Safety and Health Administration (OSHA) lead standard. This project will be completed on the dates required by the OSHA regulation to meet the lead workplace concentration standard. The estimated reduction in SO_2 fugitive emissions is approximately 8 tons per week and after treatment in an acid plant is expected to increase the total SO_2 emissions in the zinc smelter main stack by no more than 1 ton per week;

(D) Instituting a program to improve the draft maintained in the sinter machine hooding. This program will include increased maintenance on the strong and weak gas ducts, complete replacement of any mild steel hood material with stainless steel, excluding the last two hood sections which are not subject to high corrosion, and improvements in other system components to achieve 90% collection of the existing fugitive emissions estimated to be 4 tons of SO_2 per week. Part of the these emissions will be treated in an acid plant so the increase in emissions through the lead smelter tall stack is estimated to be 3 tons of SO_2 per week. Such a program is expected to increase the total SO_2 emissions from the lead smelter main stack by no more than 3 tons per week; and

(E) Installing and operating a manual and if necessary automatically controlled tuyere air flow control system on both blast furnances on or before June 11, 1980. The system is to be designed to eliminate over 90% of the current furnace upset conditions that result in fugitive SO_2 emissions. Such a program is expected to increase the total SO_2 emsissions from the lead smelter main stack by no more than 21 tons per week. The program will be designed to reduce the frequency of blast furnance upset conditions to an aggregate total of less than 3.4 hours per week.

(F) Compliance with the fugitive SO_2 emission control program will be judged by Appendix A to this regulation.

(2) *Excess emissions.* Effective on June 11, 1980, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(2) of this section in regard to acid plant bypass, excess emissions and equipment malfunction. The requirements governing excess emissions during the annual acid plant maintenance period as set forth in paragraphs (b)(5) and (b)(6) of this section shall become effective on June 11, 1979.

(i) *Definition of excess emissions.* Any SO_2 emissions exceeding the limitations specified in paragraph (b)(l)(i) of this section shall constitute on excess emission. SO_2 gas streams discharged to the atmosphere from any zinc plant roaster and from the strong gas exit point on the input end of the lead smelter sinter machine without being processed in an SO_2 removed facility shall also constitute an excess emission.

(ii) *Presumptively excused excess emissions.* Where the owner(s) or operator(s) fully comply with the reporting requirements of paragraph (b)(2)(iv) of this section and further demonstrate that the conditions specified in paragraphs (b)(2)(ii)(A) through (E) below have been met, the bypass of SO_2 gas streams around an SO_2 removal facility shall be excused. Any excess emissions, whether or not claimed by the owner(s) or operator(s)

to be excused excess emissions, may be deemed by the Administrator to violate this regulation where the owner(s) or operator(s) fail to comply with any requirement of paragraph (b)(2)(ii) of this section or upon a finding by the Administrator that the excess emissions claimed to be excusable by the owner(s) or operator(s) were caused by one or more of the conditions set forth in paragraph (b)(2)(v)(A) through (C) of this section. Excess emissions resulting from the following conditions are presumptively excused:

(A) *Process shutdown following acid plant breakdown.* In the event of a breakdown or malfunction of an acid plant, the owner(s) or operator(s) may bypass the gas stream normally controlled by such acid plant, only for the time period necessary to shutdown the process equipment (zinc roaster(s) or sintering machine) whose SO_2 streams would normally by controlled by such acid plant. Shutdown of the process equipment shall be initiated immediately and the time period to accomplish the shutdown and during which bypass is excused shall not exceed the following:

(*1*) 15 minutes for the sinter machine except where complete emptying of the sinter belt is required the time period shall not exceed 60 minutes; and

(*2*) 30 minutes for shutdown of any single zinc roaster or combination of zinc roasters;

(B) *Process shutdown following zinc roaster breakdown.* In the event of a breakdown or malfunction of a zinc roaster, the owner(s) or operator(s) may bypass the gas exhausted from that individual roaster around an acid plant and to the atmosphere commencing five minutes after concentrate feed ceases to enter such roaster;

(C) *Process startup following zinc roaster shutdown.* During the period when a zinc roaster is restarted following its shutdown the owner(s) of or operator(s) may bypass the gas exhausted from that individual roaster around the acid plant and to the atmosphere *only* as follows:

(*1*) If either of the zinc plant acid plants is being restarted the owner(s) or operator(s) may bypass, around an acid plant and to the atmosphere, the roaster exhaust gas *only* for the time period necessary for a well designed, operated and maintained acid plant [3] to establish autothermal [4] operation; and

(*2*) If no acid plant is being restarted and if one or more zinc roasters is operating the owner(s) or operator(s) may bypass, around an acid plant and to the atmosphere, the exhaust gas from the individual roaster which is starting-up but *only* for the time period which ends 15 minutes after concentrate feed commences to enter such roaster;

(D) *Process start-up following sinter machine shutdown.* In the event that the sinter machine has been shutdown, and upon its restart, the owner(s) or operator(s) may bypass the exhaust gas, around the acid plant and to the atmosphere, *only* as follows:

(*1*) If the sintering machine has been shutdown for greater than three hours bypass may occur but may not exceed the time period necessary for a well designed, operated and maintained acid plant to re-establish autothermal operation; and

(*2*) If the sintering machine has been shutdown due to an acid plant component failure and the repair of the acid plant component takes longer than three hours bypass during restart of the sinter machine may occur. Such bypass may not exceed the time period necessary for a well designed, operated and maintained acid plant to re-establish autothermal operation;

(E) *Continued process operation during annual acid plant maintenance.* The owner(s) or operator(s) may bypass the process emissions around the acid plant and to the atmosphere during the annual acid plant maintenance period *only* to the extent allowed by paragraphs (b)(5) and (b)(6) of this section;

(iii) *Other excess emission.* The owner(s) or operator(s) may in the required excess emission report of paragraph (b)(2)(iv) of this section claim that excess emissions should be deemed by the Administrator to be excusable. Any excess emission claimed to be excusable under this paragraph (b)(2)(iii) of this section shall be a violation of this regulation unless and until the owner(s) or operator(s) demonstrate to the satisfaction of the Administrator that such excess emission should be excused. For the purpose of illustration, cited below are categories of other excess emissions which may be excused:

(A) Bypass of gas around SO_2 removal facilities where necessary to prevent loss of life, personal injury or severe property damage. (Severe property damage does not include economic losses caused by production losses such as those caused by shut down of the blast furnace or electrolytic zinc processes due to lack of feed material.); and

(B) Sudden and unavoidable excess acid plant tailgas SO_2 emissions which are beyond the control of the owner(s) or operator(s). However, excess emissions shall not be deemed beyond the control of the owner(s) or operator(s) if caused by one or more of the following:

(*1*) Improperly designed acid plant components;

(*2*) Improperly operated process(es) or acid plant equipment;

(*3*) Inadequate maintenance of acid plant and/or gas cleaning systems; and

(*4*) In general, any fluctuations in volume or SO_2 concentrations of the acid plant feed gas.

(iv) *Excess emission report.* For any excess emissions, including those covered in paragraphs (b)(2)(ii) and (b)(2)(iii) of this section the owner(s) or operator(s) shall submit on initial report to the Enforcement Division Director of the EPA—Region X. The report shall be submitted monthly within 15 days from the last day of the prior month. The owner(s) or operator(s) shall also record and maintain other supplemental information as set forth in paragraph (b)(2)(iv)(B) of this section.

(A) The initial report shall contain the following information:

(*1*) Identity of the gas stream, stack or other point where the excess emissions occurred;

(*2*) General magnitude of the excess emissions;

(*3*) Time and duration of the excess emissions;

(*4*) Nature and cause of such excess emissions; and

(*5*) Identity of the equipment causing the excess emissions;

(B) The supplemental information shall include the following and if requested be provided to the Enforcement Division Director of EPA—Region X within 30 days of request;

(*1*) Specific steps taken by the operator(s) to limit the excess emissions and when those steps were commenced;

(*2*) If the excess emissions were the result of equipment malfunction, the steps taken to remedy the malfunction and to prevent the recurrence of such malfunction;

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[3] As used in this regulation, in a well designed, operated and maintained acid plant the first catalyst bed must be at or be heated to a minimum temperature of 750° F before the zinc roaster (or sinter machine) the acid plant serves re-starts.

[4] As used in this regulation the term "autothermal operation" is defined as the point in time when the temperature of gases entering the first catalyst bed in the acid plant converter is at 825° F or when the temperature of gases entering the third catalyst bed is at 750° F whichever comes first. The owner(s) or operator(s) shall insure that at any time an acid plant is started up sufficient gas will be routed to the acid plant as soon as possible to achieve autothermal operation. Further, the fan supplying gas to the lead smelter acid plant (Fan #6) shall upon start-up of the sinter machine immediately be brought up to full R.P.M. and operating Logs maintained to document full RPM flow rate.

(3) Specific magnitude of the excess emissions including monitoring data and calculations which describe or may be used in determining the magnitude of the excess emissions;

(4) Maintenance schedules applicable to the equipment causing the excess emissions;

(5) Copies of properly signed contemporaneous operating log sheets; and

(6) Other related documentation as may be reasonably required by the Director to assist him in the evaluation of the excess emissions including any information necessary to make the determinations set forth in paragraph (b)(2)(v) of this section.

(C) Failure of the owner(s) or operator(s) to provide the EPA with a full and complete excess emissions report within a timely fashion, shall constitute a violation of this regulation.

(v) *Evaluation of excess emission report.* In evaluating the excess emissions, the Enforcement Division Director shall take into consideration, the following:

(A) Whether the air pollution control systems and process equipment were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with best practice for minimizing emissions;

(B) Whether the amount and duration of the excess emissions were minimized to the maximum extent practicable during periods of such emissions, and process equipment was shut down within the shortest reasonable time after the SO_2 removal facility shut down occurs; and

(C) Whether the excess emissions were part of a recurring pattern indicative of serious deficiencies in, the design, operation or maintenance of, the process(es), the gas cleaning equipment or the SO_2 removal facility, including whether prescribed maintenance schedules were followed.

(vi) Nothing in this subsection shall be construed to limit the authority of the Administrator to take any action under Section 303 of the Clean Air Act.

(3) *Supplementary Control System.* Effective on June 11, 1979, the owner(s) or operator(s) of the subject smelter, in addition to meeting the SO_2 capture requirements of paragraph (b)(1) of this section shall employ a supplementary control system (SCS) to the extent necessary to meet National Ambient Air Quality Standards (NAAQS) for SO_2 and such other additional control measures as may be necessary, to assure the attainment and maintenance of NAAQS for SO_2. The requirements applicable to the SCS program and meeting ambient air quality standards are as follows:

(i) *SCS analysis.* On January 18, 1979, the Administrator provided the owner(s) or operator(s) with a copy of an EPA technical analysis of the existing SCS program detailing deficiencies in such program;

(ii) *Final SCS Program.* Except during the interim period as provided in paragraph (b)(3)(vii) of this section, the final SCS program shall be conducted in accordance with the provisions of an SCS implementation plan and an SCS operational manual, both of which must be approved by the Administrator. The SCS implementation plan shall describe the administrative requirements, personnel staffing, components and equipment of the SCS system. The SCS manual shall describe the circumstances under which, the extent to which, and the procedures through which emissions shall be curtailed to prevent violations of the NAAQS for SO_2. Process SO_2 emissions shall be curtailed in accordance with the SCS operating manual whenever the potential for violating any NAAQS for SO_2 is indicated at any point in a designated liability area (as defined in paragraph (b)(3)(v) of this section) by air quality measurements and air quality predictions;

(iii) *The SCS Implementation Plan.* An approvable SCS implementation plan shall contain (but not be limited to) the following:

(A) A detailed description of the emission monitoring system and the continuous SO_2 monitoring network that will be used in the SCS to detect maximum ground-level SO_2 concentrations in the designated liability area (DLA). Such description must specify the number, type and exact location of each SO_2 monitor and in-stack monitor to be used. An approvable monitoring system/network must include the following:

(1) Except as provided in paragraph (b)(3)(viii)(C) of this section, the continuous SO_2 monitoring equipment shall be located at all ambient air [5] points of expected maximum ground-level SO_2 concentrations in the DLA provided that if deemed necessary to guarantee attainment and maintenance of standards, monitors may be located in other locations with the approval of the Administrator. The determination of the locations where maximum concentrations may occur shall take into account all reasonably probable meteorological and process operating conditions, as well as the presence of other sources of SO_2 significantly affecting SO_2 concentrations in the DLA;

(2) The number and location of sites shall be based on dispersion modelling, measured ambient air quality data, meteorological data and other meteorological information;

(3) The system shall include the use of fixed SO_2 ambient monitors and one mobile monitor to be sited as, from time to time, the EPA–Region X may reasonably direct unless the Administrator determines, on the basis of a demonstration by the owner(s) or operator(s), that the use of fewer monitors would not limit coverage of points of maximum concentration or otherwise reduce the capability of the owner(s) or operator(s) to prevent any violations of the NAAQS in the DLA; and

(4) All monitors shall be continuously operated and maintained and shall meet the performance specifications contained in CFR Part 53. The monitors shall be capable of routine real time measurement of maximum expected SO_2 concentrations for the averaging times of SO_2 NAAQS.

(B) A detailed description of the meteorological sensing network. Such description must specify the number, type and exact location of each meteorological insturment to be used. An approvable network must have an assessment capability adequate to identify conditions requiring emission curtailment to prevent possible violations of the NAAQS. The meteorological assessment capability shall provide all forecast and current information necessary for successful use of the system's operational manual;

(C) A program whereby the owner(s) or operator(s) systematically evaluates and improves the ability of the SCS to protect against violations of the NAAQS. Such program must be based upon the information contained in the EPA Guideline Document–OAQPS 1.2–036; and

(D) A clear delineation of authority delegated to an appropriate named company official to require all other smelter personnel to comply with the SCS operator's curtailment decisions. The identity of responsible and knowledgeable on-site company personnel who are the qualified SCS operators and are authorized to initiate and supervise the actions that will be taken to curtail emissions shall be listed; such personnel must, upon request, be able and be authorized by the Company to inform the Administrator as to the status of the SCS, meteorological and air quality conditions at any time and

[5] As used in this regulation the term "ambient air" shall be defined in the same manner as that term is defined in the Clean Air Act and regulations promulgated thereunder.

whether and to what extent the recommendations or determinations of the SCS operator(s) were followed or overridden by any Company official in making any curtailment or operating decision;

(iv) *The SCS Operating Manual.* An approvable operational manual shall require operation of the SCS to include (but not be limited to) the following:

(A) Prescribed emission curtailment decisions based on the use of real time information from the air quality monitoring network, dispersion model estimates of the effect of SO_2 emissions on air quality, and meteorological observations and predictions;[6]

(B) The maintenance and calibration procedures and schedules for all SCS equipment;

(C) The procedures to be followed for the regular acquisition of all meteorological information necessary to operate the system;

(D) The ambient concentrations and meteorological conditions that shall be used as criteria for initiating various degrees of non-discretionary emission curtailment;

(E) The meteorological variables including the thresholds, ranges and combinations of values as to which judgments may be made to anticipate the onset of, and apply, the criteria stated in sub-paragraph (b)(3)(iv)(D) above. Specifically, the maximum emission rates which may prevail under each of these meteorological and air quality situations must be specified. Such emission rates shall be determined by in-stack monitors and shall be the basis for determining whether provisions of the operationsl manual are adhered to;

(F) The procedures through which and the maximum time period within which a curtailment decision will be made and implemented by the SCS operator;

(G) The method for immediately evaluating the adequacy of a particular curtailment decision, including the factors to be considered in that evaluation;

(H) The procedures through which and the time within which additional necessary curtailment will immediately be effected; and

(I) The procedures to be followed to protect the NAAQS for SO_2 in the event of a mechanical failure in any element of the SCS.

(v) *Designated Liability Area.* The DLA shall be the area within two circles, each with a radius of 10 statute miles (16 kilometers) with the center point of such circles coinciding, respectively, with the main stack serving the lead smelter and the main stack serving the zinc plant. If new information becomes available which demonstrates that the DLA should be redefined, the Administrator shall consider such information and if appropriate, redefine the DLA.

(vi) *Consent to liability.* On or before July 11, 1979, the owner(s) or operator(s) shall submit to the Administrator an affidavit signed by a responsible company official, empowered to do so, stating that in any judicial or administrative proceeding to enforce this regulation the owner(s) will accept responsibility for violations of the NAAQS for SO_2 in areas of ambient air in the DLA as defined by paragraph (b)(3)(v) of this section.

(vii) *Interim conduct of SCS Program.* Until the Administrator approves under paragraph (b)(3)(x) of this section a revised SCS implementation plan and a revised SCS operational manual required under paragraph (b)(3)(ix)(C) of this section, the owner(s) or operator(s) shall conduct the SCS program in accordance with the existing SCS operational manual and the existing SCS implementation plan which has been approved by the Director of the State of Idaho Department of Health and Welfare (IDHW) provided that, upon execution of the consent to liability as required by paragraph (b)(3)(vi) of this section, the existing manual and plan shall be deemed modified by such consent.

(viii) *Study regarding NAAQS.* Within the times specified by paragraph (b)(3)(ix) of this section, the owner(s) or operator(s) shall submit a study to EPA—Region X which accomplishes the following:

(A) Demonstrates that the NAAQS for SO_2 are being met in all areas of ambient air within the DLA surrounding the smelting complex;

(B) Corrects the deficiencies in the existing SCS operational manual and SCS implementation plan described in the EPA technical study of the present SCS program as described in paragraph (b)(3)(i) of this section or documents that the EPA study erroneously described such deficiencies;

(C) Demonstrates that ambient SO_2 monitors are located (or will be located) in all areas of maximum expected ambient SO_2 concentrations that take into account all probable meteorological and operating conditions. For specific locations of maximum expected ambient SO_2 concentrations, if the owner(s) or operator(s) can demonstrate in the study that maximum ground-level SO_2 concentrations can be predicted through use of alternate techniques then SO_2 ambient monitors may not have to be placed at each such respective location, provided that such respective localities are inaccessible. "Alternative techniques" as used here shall be deemed to be a demonstration through SO_2 monitoring and calibrated modeling techniques that the compliance status of each unmonitored location of maximum expected SO_2 concentration will be accurately determined from data collected at an alterntive monitoring site; and

(D) Failure to timely submit an approvable study shall constitute a violation of this regulation.

(ix) *Required submissions.* The following items must be submitted to the Administrator within the time limitations shown:

(A) Within two (2) months following the date of promulgation of the final NSO regulations under Section 119 of the Act, the owner(s) or operator(s) shall submit a study plan for the study required by paragraph (b)(3)(viii) of this section; within one (1) month following receipt of such plan the Administrator will provide comments to the owner(s) or operator(s) on such study plan;

(B) Within five (5) months following the date of promulgation of the final NSO regulations under Section 119 of the Act, the owner(s) or operator(s) shall submit a final study plan for the study required by paragraph (b)(3)(viii) of this section which incorporates the EPA comments described in paragraph (b)(3)(ix)(A) of this section;

(C) Within one (1) year following the date of promulgation of the final NSO regulations under section 119 of the Act or the final tall stack regulations under section 123 [7] of the Act (whichever is later), the owner(s) or operator(s) shall submit to the Administrator the NAAQS attainment and SO_2 ambient monitor placement study required by subparagraph (b)(3)(viii);

(D) Within eighteen (18) months following the date of promulgation of the final NSO regulations under section 119 of the Act or the final tall stack regulations under section 123 of the Act (whichever is later), the owner(s) or operator(s) shall submit to the Administrator an approvable SCS implementation plan and an approvable SCS operational manual which accomplishes the following:

(*1*) takes into account the placement of SO_2 ambient monitors in the areas of maximum expected ambient SO_2

[6] The intent behind this sub-paragraph is set forth in Sub-Part D of the recently proposed NSO regulations (44 FR 6283; 6290–6291 (January 31, 1979) and 44 FR 11096; 11097 (February 27, 1979).

[7] These Section 123 tall stack regulations were proposed in the **Federal Register** on January 12, 1979 (44 FR 2,608).

concentrations, as specified by paragraph (b)(3)(viii)(B) of this section; and

(2) incorporates the requirements of paragraphs (b)(3)(iii) and (b)(3)(iv) of this section and which remedies the problems identified in the EPA technical study of the present SCS program as described in paragraph (b)(3)(i) of this section; and

(E) Within twenty-four (24) months following the date of promulgation of the final NSO regulations under section 119 of the Act or the final tall stack regulations under section 123 of the Act (whichever is later), the owner(s) or operator(s) shall submit to the Administrator a certification that placement of SO_2 ambient monitors is in accordance with paragraph (b)(3)(viii)(C) of this section.

(x) *Final conduct of SCS Program.* Upon the Administrator's review and approval of the information submitted under paragraph (b)(3)(ix)(D) of this section, the owner(s) or operator(s) will be required to conduct the SCS program in accordance with a revised SCS operational manual and the revised SCS implementation plan approved herein. Failure of the owner(s) or operator(s) to timely submit an approvable study plan, study, SCS implementation plan or SCS operational manual will constitute a violation of this regulation.

(xi) *SCS violations.* During the interim conduct of the SCS program as discussed in subparagraph (b)(3)(vii), failure to curtail SO_2 emissions when and as much as indicated by the applicable SCS operational manual or to follow the provisions of the applicable SCS manual and SCS implementation plan shall constitute a violation of this regulation if the NAAQS for SO_2 are exceeded as a result of such failure. Upon commencement of the final SCS program as discussed in paragraph (b)(3)(x) of this section, failure to curtail SO_2 emissions when and as much as indicated by the revised SCS operational manual or to follow the provisions of the revised manual and SCS implementation plan shall constitute a violation of this regulation. Any violation of the NAAQS for SO_2 in the DLA shall be a violation of this regulation unless EPA determines on the basis of a showing by the owner(s) or operator(s) that:

(A) The smelter owner(s) or operator(s) had taken all emission curtailment action indicated by the SCS operational manual; and

(B) The violation was caused in significant part by emissions of another source(s) which were in excess of the maximum permissible emissions applicable to such source(s).

(xii) *Continuing review of the SCS Program.* The owner(s) or operator(s) shall continuously review the design and operation of the SCS program to determine what measures may be available for improving the performance of the system. An annual report shall be submitted to the Administrator by March 1 of each calendar year detailing the results of this review and specifying measures implemented to prevent the recurrence of any ambient SO_2 violations.

(4) *Monitoring, compliance reporting and compliance determination.* Effective on June 11, 1979, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(4) of this section in regard to monitoring, compliance reporting and compliance determination except where such requirement is to be met in accordance with a separate compliance schedule provided for by this regulation.

(i) *SCS Program.* For the SCS program, the owner(s) or operator(s) shall:

(A) Maintain, in a usable manner, records of all air quality measurements made, meteorological information acquired, and emission curtailments ordered (including the identity of the persons making such decisions) during the operation of the SCS. Such records shall be retained for at least two years; and

(B) Submit to the Administrator, on a monthly basis, within 15 days after the end of each month, all measurements made of air quality and all other information regarding the SCS program that the Administrator may request. Such submission shall include a monthly summary indicating all dates and times when a NAAQS for SO_2 was exceeded or equalled in the DLA.

(ii) *Compliance Monitoring.* For compliance monitoring, the owner(s) or operator(s) shall:

(A) *SO_2 concentration monitors.* Install, operate and maintain SO_2 concentration measurement system(s) in accordance with the performance specifications and other requirements contained in Appendix D to 40 CFR Part 52, and the conditions outlined as follows:

(1) All SO_2 monitors shall be operated continuously and each monitor shall take and record at least one measurement [8] of SO_2 concentration in each 15 minute period;

(2) The sampling point shall be located at least 8 stack diameters (diameter measured at sampling point) downstream and 2 diameters upstream from any flow disturbance such as a bend, expansion, constriction, or flame, unless another location is approved by the Administrator;

(3) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.645m^2 (50 ft^2) or at a point no closer to the wall than 0.914m (3 ft.) if the cross sectional area is 4.645^2 (50 ft^2) or more. The monitor sample point shall be in an area of small spatial concentration gradient and shall be representative of the concentration in the duct; and

(4) The SO_2 concentration measurement system(s) shall be subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(B) *Gas volumetric flow rate monitors.* Install, operate and maintain gas volumetric flow rate system(s) in accordance with the performance specifications and other requirements contained in Appendix E to 40 CFR Part 52 and the conditions outlined as follows:

(1) The monitors are to be operated on a continuous basis and must be located at least 8 stack diameters (diameter measured at sampling point) downstream and 2 diameters upstream from any flow disturbance such as a bend, expansion, constriction, or flange, unless another location is approved by the Administrator.

(2) The sampling point within the duct shall be representative of the average flow in the duct or at the point specified by the instrument manufacturer.

(3) The instrument used to monitor SO_2 gas streams which bypass the lead smelter acid plant shall be adequate to disclose the time of the bypass and its duration.

(4) The measurement system(s) shall be subjected to the manufacturer's calibration procedures at intervals recommended by the manufacturer. Records of these procedures shall be made which clearly show instrument readings before and after any adjustments. If manufacturers calibration procedures do not exist procedures will be specified by the EPA.

[8] In the event SO_2 measurements cannot be recorded because monitoring equipment was out-of-service for periodic zero adjustment and calibration or maintenance an arithmetic mean shall be used to determine SO_2 concentration for a given time interval. 75% of the required data will be considered sufficient to calculate a valid arithmetic average.

(C) *Gas flow indicating devices.* Install, operate, and maintain a system to detect the occurrence of situations when any gas is bypassed around an acid plant as specified in paragraph (b)(1)(iv) of this section in accordance with the following conditions:

(*1*) The system design for detecting gas flow shall be approved by the Enforcement Division Director of the EPA Region X;

(*2*) The device shall be located in each flue or duct where gas may bypass an acid plant;

(*3*) The system shall be capable of detecting gas flows as low as 5% of the maximum expected flow through each duct; and

(*4*) The system shall be continuously operated and capable of disclosing and recording the time of the bypass and its duration.

(D) *Field test.* All continuously operated instrumentation required herein shall be field tested after installation. If field test requirements are not specified by the manufacturer EPA will provide test requirements. The Administrator shall be notified at least 20 days prior to that start of the field test period, to afford the Administrator the opportunity to have an observer present.

(E) *Certification of monitors.* With the exception of the 168 hour break-in period for the SO_2 concentration measurement system(s), all SO_2 concentration and gas volumetric flow rate and gas flow indicating system(s) shall be recertified by the owner(s) or operator(s) at reasonable intervals as requested by the Administrator but in no case less frequently than once per year. The Administrator shall be notified in writing at least 20 days prior to any tests associated with this requirement so that he may have an observer present. A report of the results of each test shall be forwarded to the Administrator within 60 days of the completion of each test;

(F) *Continuous data recorder.* The equipment utilized to record the data and parameters measured by continuous monitoring instrumentation shall meet the following requirements or alternate equivalent requirements as the Administrator may require:

(*1*) Where various parameters are recorded on one strip chart the data must, to the Administrator's satisfaction, be continuously traced and each trace be individually and continuously identifiable when the chart is reproduced. In the event a color coded system of data recording is utilized copies of strip chart recordings submitted to the EPA must also be color coded or include a mathematically reduced tabulation of the data on at least 15 minute intervals;

(*2*) The scale for all SO_2 concentration readings must be set so that maximum expected reading will be at least 40% of full scale;

(*3*) The scale for all gas volumetric flow readings must be set so that the maximum expected readings will be at least 80% of full scale; and

(*4*) Other requirements regarding data reduction and recording may be specified by the Administrator or as required to enforce this regulation.

(G) All SO_2 concentration, gas volumetric flow rate and gas flow indicating measurement and recording instruments shall be maintained on operational mode and one line at *all* times except that provision will be made excusing the owner(s) or operator(s) from monitoring during periods when monitors break down due to causes beyond the control of the owner(s) or operator(s). In such an event, the owner(s) or operator(s) shall notify the Administrator within three (3) days of such a break down and provide information as to actions taken during the instrument malfunction period. All strip chart recordings of the instrumentation of paragraphs (b)(1)(iv) and (b)(1)(v) of this section must be marked once per shift as to the actual time a selected recorded measurement is being recorded. Quality assurance checks shall be performed on all continuous monitoring instrumentation at the frequency specified by the manufacturer or as otherwise reasonably required by the Administrator;

(H) Maintain, in a usable manner, process strip chart recordings, records of all measurements accumulated by the continuous monitoring systems of paragraph (b)(1)(iv) and (b)(1)(v) of this section and compliance determination calculations (measurements) of paragraph (b)(4)(iii) of this section. Such information shall be retained for at least two years. The Administrator or his authorized representative shall have reasonable access to these records; and

(I) Maintain, in a useable manner, process strip chart recordings, records and operators log sheets of plant operations for a period of at least 2 years. The Administrator or his authorized representative shall have access to those records.

(iii) *Compliance determination.* For compliance determination, the following shall apply:

(A) *Acid plant tailgas—continuous monitors.* Compliance with the requirements of paragraph (b)(1)(i)(A) of this section shall be determined using the continuous measurement system(s) of paragraph (b)(1)(iv) of this section installed, calibrated, maintained and operated in accordance with the requirements of paragraph (b)(4)(ii) of this section. An hourly running six-hour averaging period shall commence at each clock hour and continue for a consecutive six clock hour period. A new hourly running six-hour average period will commence at every clock hour. For example, in a given day the following typical hourly running six-hour averaging periods will occur: 2 a.m. to 8 a.m.; 3 a.m. to 9 a.m.; 4 a.m. to 10 a.m.; and 5 a.m. to 11 a.m. *et seq.* Six-hour average SO_2 concentration shall be calculated as of the end of each clock hour for the preceeding six hours, in the following manner:

(*1*) Divide each 6-hour period into not less than twenty-four (24) equally spaced time intervals;

(*2*) Determine on a compatible basis an SO_2 concentration for each individual time interval.[9] These measurements may be obtained either by continuous integration of all measurements recorded during the time interval or from the arithmetic average of any number of SO_2 concentration readings equally spaced over the time interval. In the latter case, the same number of concentration readings shall be taken in each interval and the readings shall be similarly spaced within each interval; and

(*3*) Calculate the arithmetic average of all interval concentration measurements in each 6-hour period.

(B) *Acid Plant Tailgas—Manual Test.* Notwithstanding the requirements of paragraph (b)(4)(iii)(A) of this section, compliance with the requirements of paragraph (b)(1)(i)(A) of this section shall also be determined by using the methods described below at such times as may be reasonably specified by the Administrator. For any acid plant, a 6-hour average SO_2 concentration shall be determined as follows:

(*1*) The test of each acid plant tailgas SO_2 concentration shall be conducted while the acid plant is operating at or above the maximum rate at which it will be operated and under such other conditions as the Administrator may specify;

(*2*) Concentrations of SO_2 in emissions shall be determined by using Method 8 as described in 40 CFR Part 60. The analytical and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling, may be omitted from the over-all test procedure;

(*3*) Three independent sets of measurements of SO_2 concentrations

[9] *Supra* note 8.

shall be conducted during three 6-hour periods for each acid plant. Each 6-hour period will consist of three consecutive 2-hour periods. All tests must be completed within a 72-hour period;

(4) In using Method 8, traversing shall be conducted according to Method 1 as described in 40 CFR Part 60. The minimum sampling volume for each 2-hour test shall be 1.132 m^3 (40 ft^3) corrected to standard conditions, dry basis;

(5) The velocity of the total effluent from each acid plant evaluated shall be determined by using Method 2 as described in 40 CFR Part 60 of this chapter and transversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in 40 CFR Part 60. Moisture content shall be determined by using Method 4 except that stack gases arising only from a sulfuric acid production unit may be considered to have zero moisture content;

(6) The gas sample shall be extracted at a rate proportional to gas velocity at the sampling point;

(7) The SO_2 concentration in parts per million-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three 6-hour test period each consisting of three 2-hour tests; and

(8) When necessitated by process variables or other factors, changes to the above test procedures may be approved by the Administrator.

(C) *7-Day emissions—continuous monitoring.* Compliance with the requirements of paragraph (b)(1)(i)(B) of this section shall be determined using the continuous measurement system(s) of paragraph (b)(1)(iv) of this section installed, calibrated, maintained and operated in accordance with the requirements of paragraph (b)(4)(ii) of this section. A daily running 7-day period shall commence at midnight of each day and continue for a consecutive 7-day period. A new daily running 7-day period will commence at midnight of every day. For example, in a given week the following typical daily running 7-day periods will occur: Tuesday (0000 hours) to Monday (2400 hours); Wednesday (0000 hours) to Tuesday (2400 hours) and Thursday (0000 hours) to Wednesday (2400 hours), *et seq.* The SO_2 emission rate for a 7-day period shall be calculated on a daily basis (midnight to midnight) in the following manner:

(1) Divide each 6-hour period into not less than twenty-four (24) equally spaced time intervals;

(2) Determine on a compatible basis an SO_2 concentration and a stack gas flow rate measurement for each individual time interval for each affected stack.[10] These measurements may be obtained either by continuous integration of SO_2 concentration and stack gas flow rate measurements (from the respective affected facilities) recorded during the time interval or from the arithmetic average of any number of SO_2 concentration and stack gas flow rate readings equally spaced over the time interval. In the latter case, the number of concentration readings shall be taken in each time interval and the readings shall be similarly spaced within each time interval;

(3) Calculate the arithmetic average (pounds SO_2 per hour) of all interval emission rate measurements in each 6-hour period for the zinc plant main stack and the lead smelter main stack and multiply that arithmetic average by the number of time intervals in the 6-hour period; and

(4) Calculate the SO_2 emission rate for each consecutive 7-day period (midnight to midnight) by summing the twenty-eight (28) 6-hour average SO_2 emission rates for each stack measured over a 7-day period.

(D) *Miscellaneous source SO_2 emissions.* The owner(s) or operator(s) shall perform a manual source test of the SO_2 emissions from the zinc fuming furnace and any other SO_2 emitting process equipment whose SO_2 emissions are not routed through the zinc plant main stack or lead smelter main stack. These emissions will not be used in calculating the 7-day SO_2 emissions as described in subparagraph (b)(4)(iii)(c) above but must be submitted to the Administrator on an annual basis. The following shall apply to the performance of the manual source test:

(1) Manual source test methods shall be in accordance with the procedures contained in Appendix A to 40 CFR Part 60 and as follows:

(i) SO_2 emissions shall be measured by Method 8 sampling train; three runs of at least 60 minutes sampling time per run will constitute one manual source test. The minimum sampling volume for each 1-hour test shall be 1.15 m^3 (40.6 ft^3) corrected to standard conditions, dry basis. The analytical and computational portions of Method 8 as they related to determination of sulfuric acid mist, as well as the isokinetic sampling, may be omitted from the overall test procedure.

(ii) Sampling will be conducted at a rate proportional to gas velocity determined according to Methods 1 and 2.

(iii) Two gas samples will be collected during each sampling run, according to Method 3.

(iv) Moisture content of the gas stream will be determined from the weight gain of the Method 8 train impingers.

(v) When necessitated by process variables or other factors, changes to the above test procedures may be approved by the Administrator.

(2) Source tests shall be conducted on or before (twelve months following execution of this Agreement) and at intervals specified by the Administrator but in any event not less than once per year;

(3) The process(es) tested shall be operated at or above the maximum rate at which it will be operated during the year and under such other conditions as the Administrator may specify; and

(4) The Administrator shall be notified in writing at least 20 days prior to any such test so that he may have an observer present.

(5) *Research and development program.* Commencing on June 11, 1979, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(5) of this section in regard to research and development. The provisions of this paragraph are intended to be read together with those set forth in paragraph (b)(6) below regarding bypass of SO_2 streams during the annual acid plant maintenance period:

(i) *Full scale research and development program.* Except as provided in paragraph (b)(5)(iii) of this section, the owner(s) or operator(s) shall implement a full scale program to capture and control an SO_2 gas stream which was not controlled as of September 28, 1978. A qualfiying program shall meet the requirements of paragraphs (b)(5)(ii), (iv), (v), (vi), (vii) and (viii) of this section, and shall consist of one of two options:

(A) An SO_2 removal facility (flue gas desulfurization system) to capture the weak stream exhausted from the sinter machine; or

(B) Substantially complete recirculation of the sinter machine weak stream [11] and treatment of the resultant gas stream in an SO_2 removal facility.

(ii) *Full scale system design criteria.* The following shall consitute the design criteria for the full scale research and development system:

(A) Sinter machine weak stream flue gas desulfurization system:

(1) 95% SO_2 capture efficiency as determined by monitoring equipment continuously measuring feed gas SO_2

[10] *Supra* note 8.

[11] Nothing in this regulation shall be constured to relieve the owner(s) or operator(s) from meeting the requirements of the Clean Air Act or regulations promulgated thereunder regarding construction or modification requirements concerning new sources.

concentration and tail gas SO_2 concentration; and

(2) 95% on-line availability;

(B) Substantially complete sinter machine weak stream recirculation:

(1) Not less than 97% partitioning of SO_2 generated in the machine shall be routed to an SO_2 removal facility;

(2) *Not more than 3% partitioning of the SO_2* gas generated in the machine shall be routed to the atmosphere via the tip end gas stream; and

(3) The SO_2 capture efficiency of the SO_2 removal facility shall not be imparied because of the additional gas captured through utilization of weak stream recirculation.

(iii) *Reduced scale research and development program.* The owner(s) or operator(s) may elect not to perform the full scale research and development program as set forth in paragraph (b)(5)(i) of this section, provided that:

(A) The owner(s) or operator(s) notify the EPA–Region X, in writing, of such decision no later than June 11, 1980, and provide a detailed account of the reasons for rejection of the full scale research and development program, including all cost and design information considered in the decision;

(B) The owner(s) or operator(s) immediately submit for the Administrator's approval a substitute research and development program, consisting of construction and operation of a flue gas desulfurization system with a minimum volume operating capacity of 5000 SCFM to treat a portion of the weak gas exhausted from the sinter machine or blast furnace;

(C) Such flue gas desulfurization system is constructed and operated in accordance with the requirements of paragraphs (b)(5) (iv), (v), (vi), and (viii) of the section within the time periods specified in paragraph (b)(5)(vii) of this section. The following shall constitute the design criteria for the reduced scale research and development system:

(1) 95% SO_2 capture efficiency as determined by monitoring equipment continuously measuring feed gas SO_2 concentration and tailgas SO_2 concentration:

(2) 95% on-line availability;

(3) Continuous measurement instrumentation to monitor and record the following:

(*i*) System temperatures, pressures and gas and liquid flow rates;

(*ii*) Feed gas and tail gas SO_2 concentration;

(*iii*) Pressure drop within the system, and

(*iv*) pH and all other critical flue gas desulfurization operating parameters such as liquid make-up and recirculations flow rates;

(4) To the extent technically feasible sufficient automatic control instrumentation shall be provided such that the system automatically compensates for feed gas excursions in particulate loading, flow rate and SO_2 concentration while insuring minimum design criteria are maintained; and

(5) To the extent technically feasible system design and control should be such that correct chemical balance is maintained to avoid scaling, corrosion and equipment malfunction.

(D) The flue gas desulfurization system shall be operated continuously, except during periods of reasonably unavoidable equipment failure in accordance with good engineering practice and in a manner such that the project will result in the collection of information adequate to determine the economic and technological feasiblity of a full scale application of such flue gas desulfurization system.

(iv) *Evaluation of the research and development program.* Effective on June 11, 1979, the owner(s) or operator(s) shall evaluate the research and development program and prepare and submit an annual report to the Administrator by March 1 of each calendar year on the progress of the research and development project and detailing the following:

(A) Capital, operating and other costs of the system;

(B) Disposal of by-products (or waste material) and associated environmental impact;

(C) Energy utilization and related potential effects on energy conservations;

(D) The effectiveness of the system to improve capture of other pollutants of both occupational and environmental significance;

(E) Problems in system design and suggested methods or acutal methods undertaken to improve the design including any anticipated scale-up problems;

(F) Maintenance requirements and frequency of system shutdown;

(G) Personal staffing requirements;

(H) SO_2 capture efficiency as impacted by process exhaust gas fluctuations and sinter machine (or blast furnace) shutdowns; and

(I) Such other related technical information as may be reasonably required by the Administrator to assist him in the evaluation of the research and development program.

(v) *System operation.* The owner(s) or operator(s) shall install and operate the full scale or reduced scale removal facility, whichever it elects, in accordance with good engineering practice and shall make a good faith effort to operate the project continously, except for periods of reasonably unavoidable malfunction until the expiration date of the first primary non-ferrous smelter order or until discontinuance is authorized under paragraph (b)(6)(iii) of this section or by written authorization of the Administrator, and in such manner as will result in the collection of information necessary to determine the economic and technological feasibility of the facility. If technically feasible, system performance must be at the design criteria as specified in paragraphs (b)(5)(ii) of (b)(50(iii) of this section subsequent to its initial break-in period.

(vi) *Sanctions.* Except where the owner(s) or operator(s) have first demonstrated to the satisfaction of the Administrator that due to technical infeasibility design criteria cannot be achieved, departure from the design criteria of paragraphs (b)(5)(ii) and (iii) (as applicable) above in the final construction or operation of the research and development program, or failure to meet the compliance schedule and reporting requirements, shall constitute a violation of this regulation.

(vii) *Research and development compliance schedule.* The owner(s) or operator(s) shall comply with the following research and development program compliance schedule:

(A) Complete an engineering evaluation of the full scale and reduced scale research and development systems listed in paragraphs (b)(5)(i) and (b)(5)(iii) of this section and submit a complete report and data to the Administrator on or before June 11, 1980;

(B) Notify the Administrator of the research and development system and the gas stream to be treated on or before June 11, 1980;

(C) Complete all engineering and design work on the research and development system on or before ten months following the notification of paragraph (b)(5)(vii)(B) of this section but in any event not later than April 11, 1981. The Administrator shall be provided with a copy of the engineering design for the techniques selected;

(D) Award construction contracts for the SO_2 capture system on or before fourteen months following the notification of paragraph (b)(5)(vii)(B) of this section but in any event not later than August 11, 1981. Such award shall be contingent upon a primary non-ferrous smelter order first being issued to the owner(s) or operator(s);

(E) If the full scale research and development system is selected, complete construction of the SO_2 capture system and begin acceptance

testing on or before March 11, 1982; and complete all start-up and acceptance testing of the SO_2 capture system and place such system in service by June 11, 1982; and

(F) If the reduced scale research and development system is selected, complete construction of the flue gas desulfurization system by December 11, 1981, and place such system in service by February 11, 1982.

(viii) *Consent to access.* The owner(s) or operator(s) shall submit a binding written agreement, signed by a responsible corporate official empowered to do so consenting to:

(A) Grant the representatives and contractors of the EPA access to any information or data employed or generated in the research and development program, including any process, emissions, or financial records which the EPA determines are needed to evaluate the technical or economic merits of the program;

(B) Grant physical access to the representatives and contractors of the EPA to each facility at which such research is conducted; and

(C) Grant the representatives and contractors of the EPA reasonable access to the persons in charge of conducting the program on behalf of the smelter owner for discussions of progress, interpretation of data and results, and any other similar purposes as deemed necessary by the EPA.

(6) *Annual acid plant maintenance offset.* Commencing on June 11, 1979, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(6) of this section in regard to continued process operation during the period when an acid plant is shut down for annual maintenance.

(i) *Bypass prohibition.* Except as provided in paragraph (b)(6)(ii) of this section, the owner(s) or operator(s) shall not operate the lead smelter sinter machine or any zinc plant roaster when any acid plant(s) serving that process is shut down for maintenance.

(ii) *Criteria for continuing process operation.* Excess emissions occurring during the period when the acid plant is shut down for the annual maintenance period [12] shall not constitute a violation of paragraph (b)(1)(ii) of this section or be included in the computation of the plant wide SO_2 emissions of paragraph (b)(1)(i)(B) of this section, provided that:

(A) The owner(s) or operator(s) commits to install additional SO_2 removal facilities and/or performs process changes to capture a gas stream in accordance with the full scale research and development program requirements of paragraphs (b)(5)(i) and (b)(5)(vii) of this section. If at any time the owner(s) or operator(s) elect not to undertake a full scale qualifying project, excess emissions occurring during the period when the acid plant is shut down for any annual maintenance period shall constitute a violation of this regulation.

(B) The owner(s) or operator(s) provide written notification to the EPA—Region X on or before June 11, 1980, that it will perform the full scale research and development program. During the period prior to such notification, excess emissions occurring when the acid plant is shut down for the annual maintenance period shall not constitute a violation of this regulation. Such continued operation while an acid plant is shut down for annual maintenance shall not in any event exceed 14 calendar days per year for each acid plant for the first 12 months following execution of this Agreement.

(C) Commencing with the first twelve month period after the election of a full scale qualifying research and development system under paragraph (b)(5)(i) of this section, and until the system is required to be placed in service under paragraph (b)(5)(vii) of this section, the combined amount of SO_2 which is released by reason of continued process operation during the annual acid plant maintenance period for all three acid plants does not exceed the lesser of 14 days for each acid plant per year or the annual incremental SO_2 capture for which the full scale research and development system is designed.

(D) During the period of time commencing when the full scale research and development system is required to first be placed in service under paragraph (b)(5)(vii) of this section and ending on the expiration date of the first primary non-ferrous smelter order, the following shall apply:

(*1*) No process operation is allowed to continue while the respective acid plant is shut down for its annual maintenance period until and unless the full scale system or process change has operated for the time period specified in paragraph (b)(6)(iii) of this section;

(*2*) During such time period, the full scale system or process change must perform substantially in accord with the system design criteria set forth in paragraph (b)(5)(ii) of this section;

(*3*) The owner(s) or operator(s) must continue to operate the full scale research and development system beyong the time period described in paragraph (b)(6)(iii) of this section and until the expiration date of the first primary non-ferrous smelter order; further the system must perform substantially in accord with the system design criteria set forth in paragraph (b)(5)(ii) of this section; and

(*4*) The combined annual amount of SO_2 which is released by reason of continued process operation during the annual acid plant maintenance period shall not exceed for all three acid plants the annual incremental SO_2 capture for which the full scale research and development system is designed and operated;

(E) Annual maintenance shall not be performed simultaneously on the lead smelter acid plant and any zinc acid plant or simultaneously on both zinc plant acid plants. If, under paragraph (b)(5)(i) of this section, a sinter machine flue gas desulfurization system is installed, annual maintenance shall not be performed simultaneously on the lead smelter acid plant and the flue gas desulfurization system; further, the sinter machine flue gas desulfurization system shall receive the maximum quantity of SO_2 practicable from the sinter machine when the lead smelter acid plant is shutdown. During annual acid plant maintenance at the zinc plant, the zinc plant acid plant which remains in service shall receive the maximum quantity of SO_2 practicable from the operating zinc roasters; and

(F) Continued process operation while an acid plant is shutdown for annual maintenance shall not in any event exceed 14 calendar days for each acid plant per year.

(iii) *Discontinuance of full scale research and development program.* In the event that severe and unavoidable production losses are incurred as a direct result of the operation of the full scale research and development system or process change during a full nine month period for the flue gas desulfurization system or three month period for the sinter machine weak stream recirculation, or upon terms otherwise agreed, in writing, by the Administrator, the owner(s) or operator(s) may discontinue operation of the full scale research and development project provided that:

(A) Notification to the Administrator of discontinuance of such operation shall be given within one month following the expiration of the requisite period. Such notification shall be accompanied by a full written justification of an analysis for the discontinuance; and

(B) Until the expiration date of the first primary non-ferrous smelter order,

[12] The term "annual maintenance period" as used herein is defined as the period occurring once (or twice if the catalyst needs to be replaced two times a year) per year for each acid plant when various maintenance functions such as catalyst replacement and heat exchanger cleaning occur. This period normally lasts less than two weeks.

the lead smelter sinter machine and any zinc plant roaster shall be shut down during any subsequent annual acid plant maintenance period.

(iv) *Pre-determined SO_2 emissions.* For the purposes of determining compliance with the design and operating criteria set forth in paragraphs (b)(6)(ii)(C) and (D) of this section, the quantity of incremental SO_2 deemed captured by the full scale qualifying project shall be calculated using a predetermined quantity of SO_2 which is emitted in the relevant gas stream prior to installation of such full scale project. The determination of pre-existing SO_2 emissions shall be as follows:

(A) For the sinter machine weak stream, a value of 15.7 tons of SO_2 per 24 hours of operation shall be used;

(B) For the blast furnace, a value of 18.3 tons of SO_2 per 24 hours of operation shall be used; and

(C) On or before June 11, 1980, if the owner(s) or operator(s) demonstrate to the satisfaction of the Administrator, using manual source test techniques, continuous SO_2 measurement techniques, or equivalent alternatives, that a different pre-existing SO_2 emission value is correct, that value may be substituted for the value(s) listed in paragraphs (b)(6)(iv) (A) and (b) of this section upon agreement of the Administrator.

(7) *Violations*—(i) *Violations of Provisions.* Failure to comply with any provisions of this regulation or with the NSO issued to replace this regulation may subject the owner(s) or operator(s) to enforcement and sanctions as set forth in the Clean Air Act and regulations promulgated thereunder.

(ii) *Violations of NAAQS.* Nothing in this subparagraph shall be construed to relieve the owner(s) or operator(s) from liability for violations of the NAAQS.

Appendix A to § 52.676(b)—Fugitive Sulfur Dioxide Emission Control Program and Its Impact To Total Plant Emissions

The total plant emission limitation of paragraph (b)(1)(i)(B) was developed based on historical emission data and included the increase in SO_2 emissions from the main stacks that would likely occur as a result of implementation of the fugitive control program described in paragraphs (b)(1)(vi)(C) (zinc roaster), (b)(1)(vi)(D) (sinter machine), and (b)(1)(vi)(E) (blast furnace). Accordingly, failure of the owner(s) or operator(s) to comply with any of the provisions of the fugitive SO_2 control program will be deemed a violation of the regulation. Compliance will be determined as follows:

a. The zinc roaster program of paragraph (b)(1)(vi)(C) is based on compliance with applicable OSHA lead workplace standards in accordance with the OSHA schedules of compliance;

b. The sinter machine program of paragraph (b)(1)(vi)(D) must ensure complete installation of new stainless steel hooding with the exception of the last two (2) sections of the hood which are not subject to high corrosion on or before June 11, 1980; and

c. The blast furnace program of paragraph (b)(1)(vi)(E) must eliminate 90% of the blast furnace upset conditions (currently occurring approximately 20% of the time).

EPA inspection of the blast furnace operation will be made to ensure that upset conditions occur no more than an aggregate total of 3.36 hours per any 7-day period. The owner(s) or operator(s) explicitly agree that failure to meet the requirements stated herein at any time subsequent to June 11, 1980, will immediately result in the decrease in the plant wide emission limit in proportion to the amount the objective was not attained. The proportional formula is shown below:

$$\text{Amount of plant wide emission reduction from the 625 tons per 7-day limit} = 21 \times \left[1 - \frac{33.6 - 2(H_u - 3.36)}{33.6}\right]$$

Where H_u = hours in any 7-day period when the blast furnace is in an upset condition. For the purpose of use in this formula H_u cannot exceed 20.16 hours.

For example, if blast furnace upset conditions occur for 8.36 hours in any 7-day period the plant wide emission limit would be reduced 6 tons per running 7-day period, i.e. the new plant wide emission limit would be 619 tons SO_2 per running 7-days.

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BILLING CODE 6560-01-M

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

[41 CFR Part 60-4]

Construction Contractors; Affirmative Action Requirements; Proposed Rule

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would clarify the requirement that a covered construction contractor's total construction workforce is protected under the requirements of 41 CFR Part 60-4 even though some of the employees perform work on non-Federal or nonfederally assisted construction contracts and such non-Federal work may occur in geographical areas where the contractor has no Federal or federally assisted construction contracts.

DATES: Comments will be received until November 6, 1979.

FOR FURTHER INFORMATION CONTACT: Edward E. Mitchell, Director, Division of Program Policy, Office of Federal Contract Compliance Programs, Room C3324, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523-9426.

SUPPLEMENTARY INFORMATION:

Published elsewhere in the **Federal Register** today is a proposed notice which would establish goals for minority employment utilization in the construction industry. The notice is published pursuant to 41 CFR 60-4.6 which authorizes the Director of OFCCP to establish goals for the construction industry in the form of a Federal Register notice to the public.

To establish goals for minority utilization, the proposed notice would establish Standard Metropolitan Statistical Areas (SMSAs) and Economic Areas (EAs) as the basic geographical units. By using these units goals would be established for the entire country thereby considerably expanding the number of locations which would have specific minority utilization goals.

Although 41 CFR Part 60-4 makes it clear that a covered construction contractor or subcontractor (i.e., one who has a Federal or federally assisted construction contract or subcontract in excess of $10,000) is required to comply with 41 CFR Part 60-4 with respect to its total construction workforce regardless of the fact that some of the construction employees perform no work on Federal or federally assisted construction contracts, some clarity may nevertheless be needed when a covered contractor performs a construction contract which is neither a Federal nor federally assisted contract in an SMSA or EA in which it does not have a Federal or federally assisted construction contract. For example, contractor A has a Federal construction contract in excess of $10,000 in SMSA X and a construction contract in SMSA Y which is neither Federal nor federally assisted. The contract in SMSA X obligates the contractor to comply with 41 CFR Part 60-4 with respect to all its construction work—Federally involved and nonfederally involved. However, the applicable goals for each contract would be the goals established for the SMSA where the contract is to be performed. That is, the contractor would adhere to the goals for SMSA X with respect to its total workforce performing construction work in SMSA X and similarly, would comply with the goals for SMSA Y for its total workforce performing construction work in SMSA Y.

To clarify these requirements, amendments are proposed to 41 CFR 60-

4.3(a) and 41 CFR 60–4.6. These amendments would make it clear that covered construction contractors must comply with the minority and female goals requirements in all areas where it performs construction work even though it may not have a covered contract in that specific geographical location, and that the applicable goal is the goal established for the geographical area where the contract is to be performed.

Accordingly, 41 CFR Part 60–4 is proposed to be amended as set forth below.

Dated: August 30, 1979.

Ray Marshall,

Secretary of Labor.

Donald Elisburg,

Assistant Secretary, Employment Standards Administration.

Weldon J. Rougeau,

Director, Office of Federal Contract Compliance Programs.

1. 41 CFR 60–4.3(a) is amended by adding a new paragraph q after paragraph p in clause 7 of the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) to read as follows:

q. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the **Federal Register** in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers.

2. 41 CFR 60–4.6 is amended to read as follows:

§ 60–4.6 Goals and timetables.

The Director, from time to time, shall issue goals and timetables for minority and female utilization which shall be based on appropriate workforce, demographic or other relevant data and which shall cover construction projects, or construction contracts performed in specific geographical areas. The goals shall be applicable to each construction trade in a covered contractor's or subcontractor's entire workforce which is working in the area covered by the goals and timetables, shall be published as notices in the **Federal Register**, and shall be inserted by the contracting officers and applicants, as applicable, in the Notice required by 41 CFR 60–4.2. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed.

[FR Doc. 79–27784 Filed 9–6–79; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 611 and 672]

Groundfish of the Gulf of Alaska Fishery Management Plan Amendment; Proposed Implementing Regulations

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

ACTION: Notice of amendment of fishery management plan; proposed regulations.

SUMMARY: An amendment (amendment number 7) to the fishery management plan (FMP) for the Gulf of Alaska groundfish fishery is approved by the Secretary under authority of the Fishery Conservation and Management Act of 1976. The purposes of the amendment are to renew the plan for the fishing year November 1, 1979–October 31, 1980, and to implement provisions of Pub. L. 95–354 to promote domestic fisheries while affording U.S. harvestors, in appropriate situations, opportunity to market catches to foreign processors. Regulations to implement the amendment are proposed.

DATE: Comments are invited until October 20, 1979.

ADDRESSES: Comments should be addressed to: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska 99802, Telephone: (907) 586–7221.

SUPPLEMENTARY INFORMATION: On April 21, 1978, an FMP for the Gulf of Alaska Groundfish, prepared by the North Pacific Fishery Management Council (Council) and approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator) was published (43 FR 17242). This FMP has been amended six times. In summary, the purposes of the amendments were to: (1) extend the fishing year to October 31, 1979, (43 FR 34825); (2) allow a directed Pacific cod fishery to concentrate in one portion of a fishing area (43 FR 47222); (3) raise reserves to allow for possible joint ventures (43 FR 46349); (4) modify regulatory areas; modify fishing restrictions on foreign vessels; increase the OY for squid and Atka mackerel; relax domestic restrictions on trawl gear; require annual renewal of domestic fishing permits, and extend the period for submitting domestic catch reports (44 FR 40099); (5) establish an OY for fish of the genus *Coryphaenoides* (rattails) (44 FR 42738); and (6) reduce the domestic annual harvest (DAH) on most groundfish species and reallocate the surplus to total allowable level of foreign fishing (TALFF) (44 FR 46904).

This amendment (number 7) renews the FMP for the fishing year November 12, 1979—October 31, 1980. Certain information and data necessary for reassessment of: (1) the status of fish stocks, (2) domestic processing capacity and the extent to which domestic processors will process the U.S. harvested portion of the OY, and (3) joint venture performance and intent were not available to the Council early enough to satisfy the procedural requirements of a Council amendment prior to expiration of the plan on October 31, 1979. The amendment is therefore initiated by the Secretary as the most expeditious means of avoiding the social and economic consequences of an unnecessary hiatus in the foreign and joint venture groundfish fisheries.

The Council intends to consider additional amendments to the FMP soon after evaluating the new information and data. As stated in the advance notice of proposed rulemaking (44 FR 47124), new information, testimony, or Council recommendations or amendments resulting from the August 23–24 Council meeting will be considered by the Assistant Administrator in determining the final form of this amendment and implementing regulations.

With one exception, amendment number 7 does not change the optimum yields (OY) or the estimates of domestic processor capacity or utilization (DAP) of the U.S. harvest established by amendments 4, 5, and 6. The DAP for sablefish has been raised to reflect new information from domestic processors. Until further new information is received, amendments 4, 5, and 6 are considered to reflect the best information available. To implement the intent of Pub. L. 95–354, however, the amendment redefines the expected DAH as including the portion of the U.S. harvest utilized by domestic processors (DAP), the portion of the U.S. harvest discarded (DIS), and the portion of the U.S. harvest estimated for delivery to

foreign processing vessels (JVP) and the amount of non-processed fish (NPF) harvested. The amendment also establishes a reserve equal to 20 percent of the OY. In consequence, DAH values are revised to reflect the summing of the components: DAP, DIS, NPF and JVP. The values of JVP are changed in accordance with the best available information. The total allowable level of foreign fishing (TALFF) is redefined as follows: TALFF=OY−DAH−Reserve.

Although the OY's for particular species and species groups remain unchanged, the Assistant Administrator is considering reorganization of species categories which include species of little commercial value which are routinely harvested incidental to directed fisheries for more valuable species. As accuracy of reporting by species increases, and as fishing strategies change, significant and unexpected incidental harvests of commercially valueless species are becoming known. Unanticipated harvests of these species (not included in the calculation of OY's for e.g., "other species" or "other rockfish") may cumulatively result in premature cessation of directed fishing, even though the individual incidental species are generally harvested in small quantities and are in little danger of being overfished. Comments are solicited on the necessity for, and method of, treating these species. One method may be establishment of a category such as "unspecified species," with a total OY based on actual incidental harvests during the fishing year.

Response to Comments

Part of the process of preparing this Secretarial Amendment included an Advance Notice of Proposed Rulemaking (44 FR 47124). This notice requested comments on the secretarial amendment and indicated that comments received before August 20 would be considered in preparing the Secretarial Amendment. One comment was received. Following is a point by point summary and response to the comment received.

1. *Comment.* Urge that 1980 DAH levels reflect *actual* capacity and intent and that unexpected increases in domestic harvesting should be covered by a reserve.

Response. We agree with the thrust of this point. The DAH levels for the 1979–80 fishing year reflect harvest actually processed during the first nine months of the 1978–79 fishing year plus processors' expectations for the last three months of the 1978–79 fishing year. It is anticipated that this estimate will be a fairly accurate estimate of the harvest for 1979–80. Unanticipated growth in domestic harvest will be covered by the reserve.

2. *Comment.* Joint venture harvest estimates should be part of DAH. These estimates should be based on actual proven capacity. Uncertainty in the estimates should be included in reserves.

Response. NOAA agrees with the sense of this comment. However, it is difficult to develop accurate estimates of capacity of joint venture harvest because this operation is in a formative stage of development and there is a limited amount of data available. We invite further comments on the estimate of JVP, with particular reference to actual catches and catch rates in August and September. We also encourage information on definite plans to fish in joint venture operations.

3. *Comment.* Because of lags in apportioning and allocating reserves, the last reserve reapportionment date should occur some time during the seventh month of the fishing year. The Regional Director should have authority to make other reapportionments at any time during the fishing year that it becomes apparent that reserves will not be necessary for domestic purposes.

Response. The proposed regulations allow more flexibility to the Regional Director in releasing reserves. By lifting the limit on the amount that can be released, larger amounts can be released earlier should the uncertainties disappear. There is provision for additional releases. It is our preliminary judgement that the last release during the seventh month may be too early to provide accurate forecasts for the rest of the year.

4. *Comment.* A DAH reapportionment mechanism, similiar to the reserve reapportionment mechanism discussed above, might be appropriate.

Response. It is our understanding that the Council is addressing this consideration.

5. *Comment.* Careful attention should be given to the by-catch requirements of target fishing operations.

Response. We agree. As we gain a better understanding of by-catch, efforts will be made to establish reasonable by-catch OY's and TALFF's, within the constraints of domestic needs and biological considerations.

The Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has made an initial determination that this amendment to the FMP (1) is necessary and appropriate to the conservation and management of Gulf of Alaska groundfish resources; (2) is consistent with the National Standards and other provisions of the Act; (3) does not constitute a major Federal action requiring the preparation of an environmental impact statement; and (4) does not constitute a significant action requiring the preparation of a regulatory analysis under Executive Order 12044.

Authority: 16 U.S.C. 1801 *et seq.*

Signed at Washington, D.C. this 31st day of August, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

A. The Fishery Management Plan for Groundfish of the Gulf of Alaska, published on April 21, 1978, in the **Federal Register** (43 FR 17242) is amended as follows:

(All changes are made in sequential order by **Federal Register** page number and section).

Federal Register, *page 17245—No.2,* change—Delete all after "formula," and insert the following:

Initial Foreign Allocation=(0.8 OY)—DAH. The 20 percent of OY held as a reserve should be reallocated either to the foreign fisheries or to the domestic fishery in season, following a reassessment of the performance of these fisheries.

Page 17245; No. 3; change. Delete present language and insert the following:

Base DAH on the esitmated catch by U.S. fishermen.

Page 17247; Section 2.2.2.(b); change. Delete present language and insert the following:

Expected domestic annual harvest (DAH) is the estimated portion of the U.S. groundfish harvest which will be utilized by domestic processors (DAP), the estimated portion which will enter non-processed fish markets (NPF), the estimated portion which is discarded (DIS), and the estimated portion, if any, delivered to foreign processors (JVP) which are permitted to receive U.S. harvested groundfish in the fishery conservation zone.

DAP is derived from the last year's purchase of fish by U.S. processors modified by the net change resulting from the expected purchases during the plan year. The Council will reasses and revise the DAP periodically during the plan year, based on processor reports and any changes in factors that would alter the levels of resource utilization.

NPF is derived from estimates of the quantities and species of groundfish that enter non-processed fish markets. The principal utilization is for pot bait in the crab fisheries with lesser quantities being utilized as bait in the longline fisheries. Minor quantities enter the institutional and household markets. Determinations of NPF are based on reported sales and interviews of fishermen who directly utilize groundfish catches for bait. Projected utilization in the plan year takes account of changing demand related to the planned magnitude of fisheries requiring groundfish as bait.

DIS, a small component of fishery mortality which is included for completeness, is

derived from fishermen interviews that solicit information on the species and quantities that are of no commercial value, extraneous to their operations, and are discarded.

JVP is the U.S. harvested portion of the OY, in excess of the estimated portion of the U.S. harvest expected to be utilized by U.S. processors, that will be delivered to foreign processors who are authorized to receive such U.S. harvested fish in the fishery conservation zone.

Current information on levels of discard and on non-processed fish is meager and accurate estimates of DIS and NPF are not available. Therefore, until better information is available, DIS is being implicitly treated as a component of natural mortality and is accounted for in the OY estimates.

The components of the DAH are dynamic and require periodic reassessment to assure that DAH remains realistic and is based on the best available current information. For example, changes resulting from additional vessels entering a fishery or from vessels leaving a fishery, changes in processing capacity or changes in a variety of other factors can alter DAH. Accordingly, DAH values will be amended as required by changes in its component elements.

Page 17247; Section 2.2.3; change.—Delete present language and insert the following:

Determination of the total allowable level of foreign fishing (TALFF). The total allowable level of foreign fishing is determined by deducting the DAH and the reserve from the OY.

Page 17247; Section 2.2; change. Add a new paragraph to read as follows:

4. A reserve is established equal to 20 percent of the OY of each species in each regulatory area to account for uncertainties arising from harvests delivered to U.S. processors, U.S. processing capacity, joint ventures, and imprecise allocations of by-catch species in mixed species fisheries. Reserves are to be apportioned promptly to the DAH (DAP or JVP), and TALFF in that order of priority, in accordance with the procedures and criteria specified in the regulations as necessary to achieve the FMP objectives.

Page 17313; Section 5.2.2; change. First paragraph, last line, delete "1978" and insert "1980."

Page 17313; Section 5.2.2; change. Second paragraph, delete all after "U.S. fishing vessels." on line 9 and insert the following:

This form of domestic utilization was allowed during four months of 1978 and more than six months in 1979. The conservation and management regime in the plan provides for a continuation of deliveries of U.S. harvested fish to foreign processors who have been issued permits to receive such fish. This provision is intended to allow for an increase in the U.S. harvested portion of the OY beyond the extent to which U.S. processors will utilize the resources (see below for estimates of JVP). Thus, in the absence of actual domestic markets, U.S. harvesters may take advantage of foreign markets through joint venture arrangement.

Page 17313; Section 5.2.2.1; change. Delete all of 5.2.2.1 except heading and insert the following:

While most U.S. processors interviewed showed an intense interest in developing a fishery for Gulf of Alaska ground fish, early expectations have not been realized. The predicted 1979 harvest of 44,500 mt proved to be more than twice the actual harvest. The State of Alaska, the Federal Government, and the fishing industry are presently investing funds and effort in well organized groundfish fishery development efforts. The probability is high that substantial expansion of the domestic groundfish industry will occur in the next few years.

The domestic annual processing estimates (DAP) were reassessed in June, 1979, following a survey of U.S. processors and an evaluation of the performance of U.S. harvestors. This reassessment also included an examination of other factors, including the seasonality of all fisheries, the status of alternative fisheries, and changes in fleet size, processing capacity and markets. The processor survey inquiry went to forty Gulf of Alaska processors and requested information on (1) the amount of fish processed to date and (2) their intent and capacity to process groundfish for the remainder of the fishing year ending October 31. There were 33 responses, which included the major groundfish processors.

As a result of the reassessment, the DAP was amended downward and re-distributed to TALFF among three regulatory areas according to processor location (Table 64).

The survey and reassessment methodologies were designed to provide results consistent with the plan and the intent of Pub. L. 95-354. The DAP values established by this reassessment are applicable to the 1980 fishing year (November 1, 1979–October 31, 1980) although subject to revision on the basis of periodic reassessments during the year.

Page 17313; Section 5.2.2.2; change. Delete present language and insert the following:

Three foreign processing vessels were issued permits to receive U.S. harvested groundfish from U.S. fishermen in the Gulf of Alaska during part of both 1978 and 1979. Although the current permits originally authorized receipt of up to 155,000 mt of pollock and assorted by-catch set aside as a joint venture reserve (JVP), the quantities of U.S. harvested fish actually delivered were minor and much of the JVP was incrementally reallocated to the TALFF.

The number of U.S. vessels participating in joint ventures numbered one in 1978 and four or five in 1979. Additional vessels are now being outfitted for groundfish trawling by U.S. principals in joint ventures resulting in the likelihood that 1980 operations will include eight or more full time specialized trawlers as well as smaller vessels on an intermittent basis.

Catch rates have increased steadily as experience is gained by U.S. fishermen. An August 1979 survey on the intentions and resource needs of U.S. interests involved with joint ventures clearly reveals the potential for rapid expansion of this means of utilization. In recognition of this probability and consistent with the provisions of Pub. L. 95-354, the plan provides an initial JVP amount of 97,845 mt of all species combined for the 1980 plan year (November 1, 1979–October 31, 1980). Should the performance of joint ventures fail to meet expectations or the demands of DAP exceed DAP plus available reserves, the JVP will be reduced accordingly. JVP surpluses not required in the DAH will be made available to the TALFF during the plan year.

Page 17314; Section 7.0—delete the last sentence of paragraph and the last three paragraphs of this section as amended by Amendment number 4, (44 FR 40102).

Page 17315; change. Table 62—delete and insert new table.

Table 62.—Gulf of Alaska Groundfish TALFF

[1,000 mt]

Species	OY	Reserve	DAH	TALFF
Pollock	168.8	33.76	64.6	70.44
Cod	34.8	6.96	15.5	12.34
Flounders	33.5	6.7	8.5	18.30
Pacific ocean perch	25.0	5.0	10.095	9.905
Rockfish	7.6	1.52	2.05	4.03
Sablefish	13.0	2.48	7.7	2.82
Atka mackerel	26.8	5.36	5.5	15.94
Squid	5.0	1.0	0.5	3.5
Rattails	13.2	2.64	1.332	9.228
Other	16.2	3.24	1.15	11.81
Total	343.9	68.66	117.627	157.613

Page 17316; change. Table 64—delete and insert new table.

Table 64.—*OY, Reserve, DAH, DAP, JVP, and TALFF by Area*

[1,000's mt]

Species		Western	Central	Eastern	Total
Pollock	OY	57.0	95.2	16.6	168.8
	Reserve	11.4	19.04	3.32	33.76
	DAH				64.6
	DAP	0.025	5.38	0.695	
	JVP	22.1	30.55	5.85	
	TALFF	23.475	40.23	6.735	70.44
Pacific Cod	OY	9.6	19.4	5.8	34.8
	Reserve	1.92	3.88	1.16	6.96
	DAH				15.5
	DAP	0.24	3.48	0.28	
	JVP	4.0	5.25	2.25	
	TALFF	3.44	6.79	2.11	12.34
Flounders	OY	10.4	14.7	8.4	33.5
	Reserve	2.08	2.94	1.68	6.7
	DAH				8.5
	DAP	0.1	0.3	0.9	
	JVP	2.3	3.15	1.75	
	TALFF	5.92	8.31	4.07	18.3

Table 64.—*OY, Reserve, DAH, DAP, JVP, and TALFF by Area*

(1,000's mt)

Species		Western	Central	Eastern	Total
Pacific Ocean Perch	OY	2.7	7.9	14.4	25.0
	Reserve	0.54	1.58	2.88	5.0
	DAH				10.095
	DAP	0.025	0.295	0.08	
	JVP	1.245	3.7	4.75	
	TALFF	0.89	2.325	6.69	9.905
Other Rockfish	OY	0.3	0.8	6.5	7.6
	Reserve	0.06	0.16	1.3	1.52
	DAH				2.05
	DAP	0.045	0.2	0.455	
	JVP	0.1	0.2	1.05	
	TALFF	0.095	0.24	3.695	4.03
Sablefish	OY	2.1	3.8	7.1	13.0
	Reserve	0.42	0.76	1.3	2.48
	DAH				7.7
	DAP	1.0	1.0	4.0	
	JVP	0.65	0.85	1.1	
	TALFF	0.93	1.19	0.7	2.82
Atka Mackerel	OY	4.4	19.4	3.0	26.8
	Reserve	0.88	3.88	0.6	5.36
	DAH				5.5
	DAP	0	0	0	
	JVP	1.1	4.15	0.25	
	TALFF	2.42	11.37	2.15	15.94
Squid	OY	1.0	2.0	2.0	5.0
	Reserve	0.2	0.4	0.4	1.0
	DAH				0.5
	DAP	0	0	0	
	JVP	0.1	0.2	0.2	
	TALFF	0.7	1.4	1.4	3.5
Rattail	OY	3.3	7.1	2.8	13.2
	Reserve	0.66	1.42	0.56	2.64
	DAH				1.332
	DAP	0.033	0.033	1.266	
	JVP	0	0	0	
	TALFF	2.607	5.647	0.974	9.228
Other Species	OY	4.4	8.6	3.2	16.2
	Reserve	0.88	1.72	0.64	3.24
	DAH				1.15
	DAP	0.1	0.1	0.1	
	JVP	0.4	0.45	0.15	
	TALFF	3.02	6.33	2.46	11.81

Page 17324; Section 8.5.1; First paragraph, first line, change.—Insert (A) ahead of "Fishery."

Page 17325; Section 8.5.1; change.—Insert two new sections as follows:

(B) Processor reports. All processors of groundfish and those buyers of groundfish whose purchases enter non-processed fish markets, except fishermen buying for their own bait needs, shall report information necessary for periodic reassessment of DAP and NPF. The regulations implementing this Plan specify the information to be reported and the time schedule for reporting.

(C) Joint ventures reports: Persons delivering U.S. caught groundfish to foreign processors vessels shall report information required for periodic reassessment of JVP. The regulations implementing this plan specify the information to be reported and the time schedule for reporting.

Page 17325; Section 8.9.1; change—Footnote 2 under "Estimated Management Costs," delete period after "1978" and substitute comma; add "$70,000 in fiscal year 1979, and $100,000 in fiscal year 1980."

PART 611—FOREIGN FISHING

B. 50 CFR Part 611 is proposed to be amended as follows:

§ 611.20 [Amended]

1. Section 611.20(c), remove the portion of Table I applicable to Gulf of Alaska Groundfish and replace it with the following Table I:

Table I

Fishery	Species	Species code	TALFF (metric tons)
Gulf of Alaska Groundfish	Cod, Pacific	702	15,500
Do	Flounders, including yellowfin sole.	129	18,300
Do	Mackerel, Atka	207	15,940
Do	Perch, Pacific ocean	780	9,905
Do	Pollock	701	70,440
Do	Rattails	315	9,228
Do	Rockfishes, other than Pacific ocean perch.	849	4,030
Do	Sablefish	703	2,820
Do	Squid	509	3,500
Do	Other Species	499	11,810

§ 611.92 [Amended]

2. Section 611.92(b), remove Table I and replace it with the following Table I:

Table 1.—*Gulf of Alaska Groundfish Fishery: TALFF and Reserve by Species and Regulatory Area for 1979–1980*

[Metric tons]

Species		Western	Central	Eastern	Total
Pollock	TALFF	23,487	40,230	6,735	70,440
	Reserve	11,400	19,040	3,320	33,760
Pacific cod	TALFF	3,440	6,790	2,110	15,500
	Reserve	1,920	3,880	1,160	6,960
Flounders	TALFF	5,920	8,310	4,070	18,300
	Reserve	2,080	2,940	1,680	6,700
Pacific ocean perch	TALFF	890	2,325	6,690	9,905
	Reserve	540	1,580	2,880	5,000
Other rockfish	TALFF	95	240	3,695	4,030
	Reserve	60	160	1,300	1,520
Sablefish	TALFF	930	1,190	700	2,120
	Reserve	420	760	1,420	2,600
Atka mackerel	TALFF	2,420	11,370	2,150	15,940
	Reserve	880	3,880	600	5,360
Squid	TALFF	700	1,400	1,400	3,500
	Reserve	200	400	400	1,000
Rattails	TALFF	2,607	5,647	974	9,228
	Reserve	660	1,420	560	2,640
Other species	TALFF	3,020	6,330	2,460	11,810
	Reserve	880	1,720	640	3,240

3. Section 611.92(a)(3) is amended to (a) delete "1978" and substitute "1979;" (b) to change "October 31, 1979" to "October 31, 1980"; and (c) to delete the final sentence: "After . . . amended."

4. Section 611.92(b)(1)(ii) is amended to read:

(ii) *Reserves.*—(A) *Apportionment of reserve amounts.* As soon as practicable after each of the following dates, and on other dates as determined by the Regional Director, the Regional Director shall apportion to the TALFF's or DAH an appropriate portion of the reserve amount set out in Table I of this section for each species in each regulatory area: January 2, March 2, May 2, July 2.

(B) *Determination*—(*1*) *General.* In making the apportionment described in paragraph (b)(1)(ii)(A) of this section, the Regional Director shall determine the appropriate portion of the reserve amount to be apportioned to DAH or to TALFF, and whether apportionment is required on other dates, based on consideration of the following factors:

(*i*) Reported U.S. catch and effort by species and area, compared to previously projected U.S. harvests;

(*ii*) Projected U.S. catch and effort by species and area for the remainder of the fishing year;

(*iii*) Amounts of fish already purchased or processed by U.S. processors during the fishing year, compared to previously projected estimates of processing or utilization;

(*iv*) Projected processing capacity and utilization of that capacity by U.S. processors for the remainder of the fishing year; and

(*v*) The need to adjust by-catch species allowances in mixed stock fisheries in order to maintain orderly fisheries and promote full utilization of fishery resources.

(*2*) *Public comment.* (*i*) Comments may be submitted to the Regional Director concerning whether or not, and the extent to which, vessels of the United States will harvest and U.S. processors will process reserve amounts during the remainder of the fishing year. (Address: NMFS, P.O. Box 1668, Juneau, Alaska, 99802).

(*ii*) For the dates specified in paragraph (b)(1)(ii)(A), comments must be submitted no later than the following respective dates: December 18, February 16, April 17, and June 18. When apportionment is deemed necessary at times other than on the dates specified, the Regional Director shall publish in the **Federal Register** a notice of the proposed apportionment which shall state the period, of not less not 15 days, during which comments must be submitted.

(*iii*) The Regional Director shall consider any timely comments filed in accordance with this subsection, in making the determination specified in paragraph (b)(1)(ii)(B)(1) of this section.

(*iv*) The Regional Director shall compile in aggregate form the most recent available reports on: (*1*) Level of catch and effort by vessels of the United States fishing in the Gulf of Alaska groundfish fishery; and (*2*) the amounts of fish processed by U.S. fish processors. These data shall be available for public inspection during business hours at the National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska, 99802, during the last 15 days of each comment period.

(*3*) *Procedure.* As soon as practicable after each of the dates stated in paragraph (b)(1)(ii)(A) of this section, or as stated in the **Federal Register** notice of the proposed apportionment on other dates, the Regional Director shall publish in the **Federal Register**: (*i*) the final amounts of reserves to be apportioned to DAH or to TALFF's; (*ii*) the reasons for the determination; and (iii) a summary of and responses to any comments received.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

C. 50 CFR Part 672 is proposed to be amended as follows:

1. Section 672.9, Reporting Requirements, is amended by adding paragraphs (e) and (f) as follows:

§ 672.9 Reporting requirements.

* * * * *

(e) Any fish buyer or processor (i.e., any person who receives fish for a commercial purpose from a fishing vessel subject to this part) shall, in response to written surveys to be conducted by the Regional Director semi-annually, or more frequently when the Regional Director determines it is necessary, report the following information: (1) Changes in the capacity of plants; (2) changes in the availability of groundfish by species; (3) changes in market demand, if known; (4) changes in expected utilization of processing capacity or expected purchases of groundfish by species for the subsequent 12 month period; and (5) changes in other factors that the buyer or processor believes relevant to the accurate determination of domestic annual processing capacity (DAP).

(f) The owner or operator of any fishing vessel of the United States which delivers groundfish to foreign processing vessels shall, in response to surveys to be conducted by the Regional Director semiannually, or more frequently when the Regional Director determines it is necessary, report the following information: (1) Changes in the number and capacity of the vessels of the owner or operator which harvest groundfish to be delivered to foreign processing vessels; (2) changes in expected regulatory areas of operations; (3) changes of the foreign processing vessel to which deliveries are expected to be made; (4) changes in groundfish quantities and/or species expected to be delivered by vessels of the owner or operator in the subsequent 12 month period; and (5) changes in other factors, the owner or operator believes relevant to the accurate determination of joint venture processing capacity.

§ 672.20 [Amended]

2. Amend § 672.20(a)(1) by deleting the second sentence ("These * * * 1979") and substituting the following:

These specifications of OY and reserves are effective for a fishing year beginning on November 1, 1979 and ending on October 31, 1980.

§ 672.20 [Amended]

3. Section 672.20(a), remove Table I and replace it with the following Table I:

Table 1.—*Optimum Yield and Reserves; Regulatory Areas*

[Metric Tons]

Species		Western	Central	Eastern	Total
Pollock	OY	57,000	95,200	16,600	168,800
	Reserve	11,400	19,040	3,320	33,760
Pacific cod	OY	9,600	19,400	5,800	34,800
	Reserve	1,920	3,880	1,160	6,960
Flounder	OY	10,400	14,700	8,400	33,500
	Reserve	2,080	2,940	1,680	6,700
Pacific ocean perch	OY	2,700	7,900	14,400	25,000
	Reserve	540	1,580	2,880	5,000
Other rockfish	OY	300	800	6,500	7,600
	Reserve	60	160	1,300	1,520
Sablefish	OY	2,100	3,800	7,100	13,000
	Reserve	420	760	1,420	2,600
Atka mackerel	OY	4,400	19,400	3,000	26,800
	Reserve	880	3,880	600	5,360
Squid	OY	1,000	2,000	2,000	5,000
	Reserve	200	400	400	1,000
Rattails	OY	3,300	7,100	2,800	13,200
	Reserve	660	1,420	560	2,640
Other species	OY	4,400	8,600	3,200	16,200
	Reserve	880	1,720	640	3,240

3. Section 672.20(c) is amended to read as follows:

(c) *Reserves*—(1) *Apportionment of reserve amounts.* As soon as practicable after each of the following dates, and on other dates as determined by the Regional Director, the Regional Director shall apportion to the Total Allowable Level of Foreign Fishing (TALFF's), or to Domestic Annual Harvest (DAH) an appropriate portion of the reserve amount set out in Table I of this section for each species in each regulatory area: January 2, March 2, May 2, July 2.

(2) *Determination*—(i) *General.* In making the apportionment described in paragraph (c)(1) of this section, the Regional Director shall determine the appropriate portion of the reserve amount to be apportioned to DAH or to TALFF, and whether apportionment is required on other dates, based on consideration of the following factors:

(A) Reported U.S. catch and effort by species and area, compared to previously projected U.S. harvesting capacity;

(B) Projected U.S. catch and effort by species and area for the remainder of the fishing year;

(C) Amounts of fish already purchased or processed by U.S. processors during the fishing year, compared to previously projected estimates of processing or utilizations;

(D) Projected processing capacity and utilization of capacity by U.S. processors for the remainder of the fishing year; and

(E) The need to adjust by-catch species allowances in mixed stock fisheries in order to maintain orderly fisheries and promote full utilization of fishery resources.

(ii) *Public comment.* (A) Comments may be submitted to the Regional Director concerning whether or not, and the extent to which, vessels of the United States will harvest and U.S. processors will process reserve amounts during the remainder of the fishing year. (Address: NMFS, P.O. Box 1668, Juneau, Alaska, 99802).

(B) For the dates specified in paragraph (c)(1), comments must be submitted no later than the following respective dates: December 18, February 16, April 17, and June 18. When apportionment is deemed necessary at times other than on the dates specified, the Regional Director shall publish in the **Federal Register** a notice of the proposed apportionment which shall state the period, of not less than 15 days, during which comments must be submitted.

(C) The Regional Director shall consider any timely comments filed in accordance with this subsection, in making the determination specified in paragraph (c)(2)(i) of this section.

(D) The Regional Director shall compile in aggregate form the most recent available reports on: (1) Level of catch and effort by vessels of the United States fishing in the Gulf of Alaska groundfish fishery; and (2) the amounts of fish processed by U.S. fish processors. This data shall be available for public inspection during business hours at the National Marine fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska, 99802, during the last 15 days of each comment period.

(iii) *Procedure.* As soon as practicable after each of the dates stated in paragraph (c)(1) of this section, or as stated in the **Federal Register** notice of the proposed apportionment on other dates, the Regional Director shall publish in the **Federal Register:** (A) The final amounts of reserves to be apportioned to DAH or to TALFF's: (B) the reasons for the determination; and (C) a summary of and responses to any comments received.

[FR Doc. 79-27828 Filed 9-6-79; 8:45 am]

BILLING CODE 3510-22-M

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

[50 CFR Part 810]

Exports of Appendix II Species: Bobcat, Lynx, River Otter, Alaskan Brown Bear, and Alaskan Gray Wolf; Proposed Export Findings for the 1979–1980 Season; Revised Proposal and Additional Comment Period

AGENCY: Endangered Species Scientific Authority.

ACTION: Proposed rulemaking.

SUMMARY: On July 12, 1979, the Endangered Species Scientific Authority (ESSA) proposed findings on a state-by-state basis as to whether export of bobcat, lynx, and river otter pelts harvested in 1979–1980 will not be detrimental to the survival of those species (44 FR 40841 et seq.). The ESSA has received subsequently several state reports in support of a no detriment finding. Because we desire maximum public input, we are revising our July 12 proposals in light of these reports, and we are extending until September 14 the comment period for these revisions only. The nature, circumstances, and anticipated consequences of these proposed findings are described in detail in the proposed findings of July 12. In the July 12 publication, findings were also proposed relative to whether export of these species, Alaskan brown bear and Alaskan gray wolf would not be detrimental to the survival of similar species. No changes are proposed at this time for those proposals.

DATES: Comments on this supplement are due on or before September 14, 1979. The comment period for the original July 12 proposal is unchanged, and closes on September 10.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, NW., Washington, D.C. 20240. Forthcoming comments and comments already received will be available for public inspection at 1717 H Street, NW., Room

536, Washington, D.C. 7:45 a.m. to 5:30 p.m., Mondays through Fridays except federal holidays.

FOR FURTHER INFORMATION CONCERNING BIOLOGICAL FINDINGS CONTACT: Dr. Peter C. Escherich, Staff Zoologist, Endangered Species Scientific Authority, 18th and C Streets, NW., Washington, D.C. 20240, 202/653–5948.

FOR INFORMATION CONCERNING EXPORT PERMITS CONTACT: Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202/634–1496.

SUPPLEMENTARY INFORMATION: The ESSA revises its proposed export findings of July 12 consistent with the following modifications in the tables published as part of that proposal, based on new information received. The information and proposed findings provided below for different states and species are hereby substituted for the information and proposed findings for those same states and species currently contained in pages 40847 to 40852 of the July 12 proposal, Volume 44 of the **Federal Register:**

BOBCAT

STATE	HARVEST OBJECTIVES 1979-1980	REPORTED 1978 - 1979 Number	REPORTED 1978 - 1979 How Reported	TAGGING	LOCAL DATA & MGMT.	RECENT CHANGES AND COMMENTS	FINDINGS & CONDITIONS UNDER ARTICLE II 2(a) for '79-'80
Alabama	NS	1,631 3,302	VT TR, DR	VTA'78	LH	Major study recently completed; Summary only available to date. Harvest estimate based on projection of incomplete trappers and dealers reports.	A
Arizona	5,500 - 6,500	6,492 6,754	VT TS	VTA'77	LH, LS	Local unit managers (83 management units) make recommendations concerning species in their units. "At present, there does not appear to be any significant population changes, except in those areas where home developments. etc. have displaced wildlife."	A
Arkansas	3,500 max	3,278 3,250	DR TR, IR	VTA'77 MTA'78	LH	'79 - '80 season reduced ten days. Fur takers permits to be required. Dealer report mandatory. Management goal: "Harvest approx. 10%...and/or to maintain a desired age structure." Age structure data being collected.	A
Colorado	3-4,000,M	2,543 2,907 1,645	TR TS+HS+ADC DR	MTA'78	LH,LS	Age structure analysis in progress. Current status evaluate annually based on comparison of prey abundance, harvest success ates, and habitat suitability by management units.	A
Idaho	NS	1,320	VT	VTA'78	LH,LS	Study in progress. '79-80 season reduced to 23 days. Skulls and reports to be required for tagging.	A

BILLING CODE 9310–55–M

STATE	HARVEST OBJECTIVES 1979-1980	REPORTED 1978 - 1979 Number	REPORTED 1978 - 1979 How Reported	TAGGING	LOCAL DATA & MGMT.	RECENT CHANGES AND COMMENTS	FINDINGS & CONDITIONS UNDER ARTICLE II 2(a) for '79-'80
Kansas	2,000	822 1,166 +539	TR TS HS	MSA'78	LS	Tag required for sale, purchase, or shipment from state. Carcass turn-in required for tagging. In-state dealers bought 949 in 1977-78 season.	A
Massachusetts	50 max	29	TR	MTA'77	LH,LM	Age structure analysis in progress. "Anticipate ... mandatory carcass turn in for 1979-80." "Field reports of bobcat activity were exceptionally high last winter."	A
New Mexico	M, 6,000 max	4,393	VT	VTA'77	LH	No legislative authority to manage species. Severe winter weather apparently reduced trapping effort in much of state. In-state dealers bought 3,116 pelts. Skulls and data cards required for tagging. Estimate 97% of pelts are tagged. Previous population model being refined. Research on geographical variation in progress.	Q: 6,000
Oregon	4,000	2,950	VT	VTA'78 MTT'79	LH,LM	Season to be re-opened in eastern Oregon with bag limit of 3, based on reports by all 15 local field biologists in area that status is improving. Tagging made mandatory. No limit in west, but nontransferable tags only available to individual hunter or trapper for one half of state. Beginning several studies, including age structure (E and W), local surveys, live-trap and tagging, track counts, food habits, reproduction, density.	A
South Carolina	1,000	458-578	TR,IR	MTT'78	LH	Harvest report represents 458 indicated on received harvest reports plus 120 tags held by persons whose mandatory reports and unused tags not yet received. New Furbearer Management Section set up. Will be carrying on detailed studies and making management recommendations.	A

BOBCAT

STATE	HARVEST OBJECTIVES 1979-1980	REPORTED 1978 - 1979 Number	REPORTED 1978 - 1979 How Reported	TAGGING	LOCAL DATA & MGMT.	RECENT CHANGES AND COMMENTS	FINDINGS & CONDITIONS UNDER ARTICLE II 2(a) for '79-'80
South Dakota	M	153	TR, HR	MTA'77	LH,LM	Current assessment of age structure indicates population "nearly stable or possibly increasing slightly," confirmed by reports at hearings of increasing populations. (Season was reduced to 1 month and closed east of Missouri River following '77 reports of declining population.) '79-80 season also closed in Corson County, which has been high harvest area. Data reports, teeth, and carcass collected at tagging. Age structure and harvest analysis continuing.	A
Utah	2,000 -2,500	closed '76 - '79		MTT/MSA'79		5/79: Management authority assigned to Utah Division of Wildlife Resources. Work in progress on survey techniques. General indication of increasing populations by Field Agents and by houndsmen. Two month season to be opened '79-'80. Bag limit of 4, enforced by required special permit including 4 possession tags. Prior to sale, agent must replace with metal sale tag and collect data and jaw. Will analyze age structure from collected teeth.	A
Vermont	100 max	59	TR, HR	MTA'76	LH, LS	To increase sample collection for age, sex, reproductive and food habits data. November hunting season eliminated. More stringent furbuyer reporting system planned for 1981.	A
Wisconsin	260	223	TR, HR	MTA'73	LH, LS	Continuing surveys by track counts and harvester questionnaires. "Field surveys indicate ... relatively stable population."	A

STATE	HARVEST OBJECTIVES 1979-1980	REPORTED 1978 - 1979 Number	REPORTED 1978 - 1979 How Reported	TAGGING	LOCAL DATA & MGMT.	RECENT CHANGES AND COMMENTS	FINDINGS ? CONDITIONS UNDER ARTICLE II 2(a) for '79-'80
Alabama	NS	882 2,145	VT TR, DR	VTA'78	LH	Continuing research on otters in state. Reduced pelt price for beaver expected to reduce otter harvest. Harvest estimate based on projection of incomplete trapper and dealer reports.	A
Alaska	2,200	1,991	TR	MTA'77	LM	Relatively constant harvest since 1961, averaging 2,729 per year (range 1500-4010). Trapping localized and by relatively by individuals. Habitat little modified. Strong effect by weather and accessibility on harvest level. Harvest report was to be revised upward slightly on final tabulation.	A
Arkansas	600	749 421	DR TR	MTA'77	LH	'79 - '80: Season reduced 10 days; fur taker's permit to be required; dealer report mandatory. "Reports from the public indicate ... population is increasing..." Age structure not yet analyzed.	A
Massachusetts	100 ± 30	121	TR	MTA'76	LH, LS	Age structure analysis in progress for '78 - '79 sample. Re-analysis of '77 - '78 age structure indicates older average age than previously suggested.	A
New Hampshire	200	206	TR	MTA	LH, LM	Carcasses collected, '78 - '79; to be mandatory '79 - '80 for tagging. To study age, sex, reproductive information, food habits, parasites.	A

RIVER OTTER

STATE	HARVEST OBJECTIVES 1979-1980	REPORTED 1978 - 1979 Number	REPORTED 1978 - 1979 How Reported	TAGGING	LOCAL DATA & MGMT.	RECENT CHANGES AND COMMENTS	LIMITS & CONDITIONS UNDER ARTICLE II 2(a) for '79-'80
Oregon	350	348	VT	VTA	LH	'79 - '80: Season reduced by two weeks in best habitat, no longer coincident with beaver season. "Catch ... relatively stable over the past five years ... few trappers concentrate on otter."	A
South Carolina	1,000	476-617	TR,HR	MTT'78	LS	Harvest reports represents 476 indicate on received harvest reports plus 141 tags held by persons whose mandatory reports and unused tags not yet received. New Furbearer Management Section set up -- will be carrying on detailed studies and making management recommendations.	A
Vermont	80 max	76	TR	MTA'73	LH	To increase sample collection for age, sex, reproductive, and food habits data. More stringent furbuyer reporting system planned for 1978.	
Wisconsin	7,100	962	TR	MTA'55	LH	Status study begun: to develop harvest evaluations, population model, and aerial track count survey. "Field surveys indicate ... relatively stable population."	A

BILLING CODE 9310-55-C

Lynx

Alaska

Harvest objective: 2,800. Harvest (MTA '77): 2,310 Local: LM, LH, LS. "The most recent harvest data available indicate that the lynx cycle in northern Alaska is at or near its 10-year peak. In southcentral and central regions peak densities will occur during the 1981–83 period." "Age distributions . . . compiled from data on the sealing documents. These provide a quantitative assessment of cyclic behavior for population in several areas of the state." Finding: A.

Proposed Regulations Promulgation

Accordingly, it is hereby proposed amend Part 810. Chapter VIII, Title 50 of the Code of Federal Regulations. To those rules proposed on July 12, 1979 (44 FR 40855–40857) the following states would be added in correct alphabetic sequence as approved for 1979–80 in the appropriate sections:

To Annex C—Bobcat, under 1979–1980 Harvest, would be added:

Alabama, Arizona, Arkansas, Colorado, Idaho, Kansas, Massachusetts, New Mexico (Q:6,000) Oregon, South Carolina, South Dakota, Utah, Vermont, Wisconsin.

To Annex D—River Otter, under 1979–1980 Harvest, would be added:

Alabama, Alaska, Arkansas, Massachusetts, New Hampshire, Oregon, South Carolina, Vermont, Wisconsin.

To Annex E—Lynx under 1979–1980 harvest would be added:

Alaska.

Publication of these proposed findings has been approved by the Members of the Endangered Species Scientific Authority.

Dated: September 4, 1979.

William Y. Brown,

Executive Secretary.

[FR Doc. 79-27893 Filed 9-6-79; 8:45 am]

BILLING CODE 9310-55-M

Notices

Federal Register
Vol. 44, No. 175
Friday, September 7, 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

Animal and Plant Health Inspection Service

General Conference Committee of the National Poultry Improvement Plan; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan.

SUMMARY: The purpose of this document is to give notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan (NPIP).

PLACE, DATE AND TIME OF MEETING: Room 3524, South Agriculture Building, Washington, D.C., 9:00 a.m. to 5:30 p.m., September 27, 1979, and 9:00 a.m. to 12:00 (noon), September 28, 1979.

SUPPLEMENTARY INFORMATION: The General Conference Committee of the NPIP was established in the Science and Education Administration, via Secretary's Memorandum No. 1891, Revised, dated August 1, 1978.

The purpose of the committee is to make recommendations to the Department relative to the successful operation of the NPIP.

Responsibility for the NPIP was transferred from the Science and Education Administration to the Animal and Plant Health Inspection Service via Secretary's Memorandum 1983, dated April 9, 1979.

The purposes of the meeting are to advise the Department on keeping the programs of the NPIP geared to the needs of the industry and to make recommendations to the Department on interpretation of and changes in certain provisions of the NPIP.

Matters scheduled for consideration at the meeting are:

1. Use of NPIP Form 15.
2. Alternatives to the present delegate representation system at Plan Conferences.
3. Labeling of poultry being shipped through the U.S. Postal Service.
4. Started Pullet Certification Program.
5. *S. gallinarum* as an exotic disease.
6. Blood testing of waterfowl.

The meeting will be open to the public. Written statements concerning this matter may be filed with the committee before or at the time of the meeting.

Further information may be obtained from, and written statements may be forwarded to Mr. R. D. Schar, Senior Coordinator, National Poultry Improvement Plan, APHIS, VS, Bldg. 265, BARC–E, Beltsville, MD 20705, 301–344–2227.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

Dated: August 30, 1979.

[FR Doc. 79–27565 Filed 9–6–79; 8:45 am]

BILLING CODE 3410–34–M

Rural Electrification Administration

Associated Electric Cooperative, Inc.; Negative Determination

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination as to the need for an Environmental Impact Statement by REA in connection with possible financing assistance to Associated Electric Cooperative, Inc. (Associated) of Springfield, Missouri, for the construction of ash dewatering and barge loading facilities required for the sale of slag at the New Madrid Power Plant located at New Madrid, Missouri.

REA adopts the "Associated Environmental Analysis for Ash Loading Facility at New Madrid Power Plant—New Madrid, Missouri" as REA's assessment regarding the environmental impact associated with REA's provision of financing assistance for this project. REA concluded that REA financing assistance in this case does not constitute a major Federal action significantly affecting the quality of the human environment and that, in this case, no REA Environmental Impact Statement is necessary.

Copies of REA's record setting forth this decision and reasons for the determination are available to the public upon request to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D. C. 20250.

No final REA action will be taken with respect to this matter until September 24, 1979.

Dated at Washington, D. C., this 29th day of August, 1979.

Joseph Vellone,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 79–27567 Filed 9–6–79; 8:45 am]

BILLING CODE 3410–15–M

Basin Electric Power Cooperative; Intent To Prepare Two Draft Environmental Impact Statements and Public Information Meetings

Notice is hereby given that the Rural Electrification Administration (REA) intends to prepare two Draft Environmental Impact Statements (DEIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 in connection with anticipated loan request for financial assistance from Basin Electric Power Cooperative (Basin), 1717 East Interstate Avenue, Bismarck, North Dakota 58501, to provide certain generation and related facilities.

The proposed facilities will consist of two possible 1,000 MW coal-fired generating stations and related facilities. One 1,000 MW plant will be located in South Dakota or western North Dakota and will serve the eastern portion of Basin's system. The other 1,000 MW plant will be located in eastern Montana or northeastern Wyoming and will serve the western portion of Basin's system. Basin's system is electrically separated into eastern and western systems. This separation exists nationally from Canada to Texas. Several small tie lines connect the east and west systems but none have adequate capability to transfer large quantities of power. An independent DEIS will be prepared for each facility.

As a result of discussions in May 1979 among Federal and State agencies who may have responsibilities with respect to the proposed projects, including REA, U.S. Environmental Protection Agency, and U.S. Department of Interior, REA has been identified as Federal lead agency in preparation of the environmental impact statements.

Public information meetings will be held in order to provide public input and comments concerning the need for the project, sites and route locations, potential alternatives, significant issues that should be addressed in the environmental impact statement and other matters concerning the proposed construction. A representative of REA will act as chairperson for said meetings, and other involved Federal and State agencies have been invited to send representatives. The meetings are scheduled as follows:

West

Holiday Inn, 2009 South Douglas Highway, Gillette, Wyoming, September 12, 1979, 7:00 p.m.

Olive Motor Inn, 501 Main Street, Miles City, Montana, September 13, 1979, 7:00 p.m.

East

Basin Electic Power Cooperative Board Room, 1717 East Interstate Avenue, Bismark, North Dakota, September 17, 1979, 7:00 p.m.

Alternatives to be considered by REA and the borrower are described in REA Bulletin 20–21:320–21 and may include (a) no project, (b) conservation measures, (c) purchase power from other utilities, (d) shared generating units with other utilities, (e) alternative sites for the generating plant and transmission lines, (f) alternative fuels, and (g) alternative methods of generation.

The Rural Electrification Administration encourages the public to attend the meetings and provide their input. Any person, group or governmental entity which desires to make its comments, questions and/or recommendations in writing may do so either at the meeting or by writing to Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. A record will be made of the meeting and comments made will be responded to in the draft environmental impact statement. In addition, the records of proceedings will be held open through October 15, 1979.

Any questions prior to the meeting concerning the nature of the project should be directed to Basin at its address given above or by calling (701) 223–0441.

Any loan or loan guarantee commitment which may be made pursuant to this potential application will be subject to and release of funds thereunder will be contingent upon, REA's reaching statisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with the environmental impact statement procedures required by the National environmental Policy Act of 1969.

Dated at Washington, D.C. this 28th day of August 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79–27468 Filed 9–6–79; 8:45 am]

BILLING CODE 3410–15–M

Colorado-Ute Electric Association, Inc.; Notice of Intent To Prepare a Draft Environmental Impact Statement, Hold an Interagency Meeting and Public Information Meetings

Notice is hereby given that the Rural Electrification Administration (REA), if lead agency, intends to prepare a draft environmental impact statement (EIS) in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a possible loan guarantee commitment to Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401. Notice is also given that an interagency meeting was held and public information meetings will be held concerning the proposed project.

The statement will address a proposed 345 kV transmission line in western Colorado from Rifle, Colorado, to San Juan, New Mexico. Interested persons are invited to submit comments which may be helpful to REA in the preparation of a draft EIS. Comments should be sent to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

An interagency meeting was held on August 29, 1979, at the Colorado State Bank Building, Room 700, 1600 Broadway, Denver, Colorado, at 1:00 p.m. Federal, state and local agencies were invited to attend. Issues discussed included (a) designation of the lead federal agency, (b) determination of the project scope and identification of the significant environmental issues, (c) elimination of issues which are not significant from detailed study, (d) identification of cooperating agencies and allocating assignments to them for the EIS process, (e) identification of other environmental review, consultation, and study requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with the EIS, (f) identification of exclusion areas and/or other potential transmission corridors, and (g) Federal, state and local coordination.

Public information meetings will also be held on September 17, 1979, at the Norwood High School, all purpose room, West Summit Avenue, Norwood, Colorado, at 7:00 p.m.; on September 18, 1979, at the Delta High School Auditorium, 822 Grand Avenue, Delta, Colorado, at 7:00 p.m.; on September 20, 1979, at the Durango Senior High School Auditorium, 2390 Main Avenue, Durango, Colorado, at 7:00 p.m.; and on September 21, 1979, at the Farmington Civic Center, Meeting Room CD, 200 West Arrington, Farmington, New Mexico, at 7:00 p.m. These public information meetings, to be co-chaired by representatives of REA and Colorado-Ute, will be held in order to receive public input and comments concerning the need for the project, potential transmission corridors, significant issues that should be addressed in the EIS and other matters concerning the proposal. A record will be made of the meetings and comments made will be addressed in the draft EIS.

REA encourages the general public to attend these public information meetings and provide their input. Any person or group which desires to place its comments, questions or recommendations in writing, may do so either at the meetings or by submitting them to REA. Comments may be sent to the Rural Electrification Administration, at the address given above.

Requests for additional information or questions concerning the meetings may also be directed to Colorado-Ute at its address given above.

Dated at Washington, D.C., this 31st day of August, 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79–27904 Filed 9–6–79; 8:45 am]

BILLING CODE 3410–15–M

CIVIL AERONAUTICS BOARD

Chilcotin-Cariboo Aviation, Ltd., Foreign Air Carrier Permit Between Canada and the United States

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79–8–169.

SUMMARY: The Board proposes to approve the following application:

Applicant: Chilcotin-Cariboo Aviation Ltd.

Application Date: April 9, 1979. Docket: 35284.

Authority Sought: Foreign air carrier permit authorizing small aircraft charters between points in Canada and points in the United States.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that

this authority should be granted, as described in the order cited above, shall, no later than October 9, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Docket 35284, Docket Section, Civil Aeronautics Board, Washington, D. C. 20428.

Mr. Gerhard Riedmann, President, Chilcotin-Caribbo Aviation, Ltd., P.O. Box 4691, Williams Lake, British Columbia, Canada V2G 2V7.

TO GET A COPY OF THE COMPLETE ORDER, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Nancy L. Pitzer, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board (202) 673–5104.

By the Civil Aeronautics Board, August 31, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–27913 Filed 9–6–79; 8:45 am]

BILLING CODE 6320–01–M

[Docket 36063]

Increased Excess Baggage Charges in Overseas and International Air Transportation Proposed by Pan American World Airways, Inc.; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter, previously postponed at the request of the parties, is assigned to be held on October 3, 1979, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., August 31, 1979.

Henry M. Switkay

Administrative Law Judge.

[FR Doc. 79–27911 Filed 9–6–79; 8:45 am]

BILLING CODE 6320–01–M

Meridian Air Cargo, Inc., et al.; Proposed Revocation of All-Cargo Air Service Certificates

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause 79–8–176.

SUMMARY: The Board is proposing to revoke the All-Cargo Air Service Certificates of Meridian Air Cargo, Inc. (Docket 31651); Pacific Aero, Inc. (Docket 31783); Nor-Cal Aviation, Inc. (Docket 31896); Georgia Air Freight, Inc. (Docket 31905); Air Trans Commuter, Inc. (Docket 31911); and Commercial Air Transport, Inc. (Docket 31919) for non-compliance with certificate conditions regarding the filing of insurance certificates in accordance with Section 291.22 of the Board's Economic Regulations. (The complete text of this order is available as noted below).

DATES: All interested persons having objections to the Board issuing an order making final the tentative finding, shall file with the Board and serve upon the appropriate carrier(s), no later than October 5, 1979, a statement of objections, together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the statement of objections.

ADDRESSES: Objections should be addressed to the appropriate docket, Docket Section, Civil Aeronautics Board, Washington, D. C. 20428.

FOR FURTHER INFORMATION CONTACT: John McCamant, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5082.

SUPPLEMENTARY INFORMATION: In the event no objections are filed, the Secretary of the Board will enter an order making final our tentative findings and revoking the All-Cargo Air Service Certificates of the subject carriers.

The complete text of Order 79–8–176 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79–8–176 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

August 31, 1979.

[FR Doc. 79–27912 Filed 9–6–79; 8:45 am]

BILLING CODE 6320–01–M

United Air Lines, et al; Proposed Grants of Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–8–185.

SUMMARY: The Board is proposing to grant Denver-Orlando-Tampa-Sarasota-Fort Myers-West Palm Beach-Fort Lauderdale-Miami and Chicago-Orlando-Tampa-Sarasota-West Palm Beach-Fort Lauderdale-Miami authority to United; Denver-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Fort Lauderdale/Miami and Chicago-Orlando/Tampa/Sarasota/West Palm Beach/Fort Lauderdale/Miami nonstop authority to Ozark; Denver-Orlando-Sarasota/Fort Myers/West Palm Beach and Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Fort Lauderdale/Miami nonstop authority to Continental; Denver/Colorado Springs-Orlando/Tampa/Fort Lauderdale/Miami nonstop authority to National; Denver/Chicago-Orlando-Tampa-Sarasota-Fort Myers-West Palm Beach-Fort Lauderdale-Miami authority to Western; Chicago-Orlando/Tampa/Miami/Ft. Lauderdale nonstop authority to Trans International and any of the authority in issue to any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than October 5, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than September 20, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 36499, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of

Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, (202) 673–5384.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: United Airlines, Ozark Air Lines, Continental Air Lines, National Airlines, Western Air Lines, Trans International Airlines, Eastern Air Lines, Republic Airlines and Northwest Airlines.

The complete test of Order 79–8–185 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–8–185 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–27914 Filed 9–6–79; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from twelve firms: (1) Ericksen Textile Company, 626 North Locust Street, Momence, Illinois 60954, a producer of fishing nets, seines, bags, and lines; and basketball goals (accepted August 23, 1979); (2) Crescent Glass Company, Inc., Sixth and Yankee Streets, Wellsburg, West Virginia 26070, a producer of glass candle holders and lamp parts (accepted August 23, 1979); (3) K & R Handbags, Inc., 10 North Cherry Street, Poughkeepsie, New York 12601, a producer of handbags (accepted August 27, 1979); (4) Big Johns Shingle Mill Inc., 308 Main Street, Caribou, Maine 04736, a producer of cedar shingles (accepted August 27, 1979); (5) Peppy Girl, Inc., 116 West 32nd Street, New York, New York 10001, a producer of children's dresses, playwear, shirts, and blouses (accepted August 27, 1979); (6) Johnson Steel & Wire Company, Inc., 53 Wiser Avenue, P.O. Box 247, Worcester, Massachusetts 01613, a producer of steel wire (accepted August 28, 1979); (7) H. Margolin and Company, Inc., 380 River Street, Fitchburg, Massachusetts 01420, a producer of women's handbags (accepted August 28, 1979); (8) Varmac Manufacturing Company, Inc., 4201 Redwood Avenue, Los Angeles, California 90066, a producer of fishing rod components (accepted August 29, 1979); (9) Patton Shirt Manufacturing Company, Inc., P.O. Box 206, Patton, Pennsylvania 16668, a producer of men's and women's shirts (accepted August 29, 1979); (10) Poliplast, Inc., 177 Merrimack Street, Lawrence, Massachusetts 01843, a producer of shoe soles (accepted August 30, 1979); (11) Solboro Knitting Mills, Inc., 15 Pond Road, Oakdale, New York 11769, a producer of women's sweaters (accepted August 30, 1979); and (12) Spring Pond Nursery, 229 New Boston Road, Canastota, New York 13032, a producer of potted and other annual plants (accepted August 30, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and Section 315.23 of the Adjustment Assistance Regulations for firms and communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Charles L. Smith,

Acting Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79–27984 Filed 9–6–79; 8:45 am]

BILLING CODE 3510–24–M

National Oceanic and Atmospheric Administration

Approval of the Delaware Coastal Zone Management Program

Pursant to the authority contained in Section 306(a) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1445(a), notice is hereby given that, on behalf of the Secretary of Commerce and the Administrator of the National Oceanic and Atmospheric Administration (NOAA), NOAA's Assistant Administrator for Coastal Zone Management on August 21, 1979, approved the coastal program of Delaware.

Pursuant to the Federal consistency provisions of the Coastal Zone Management Act, this approval activates Federal Agency responsibility for insuring that their activities are consistent with this program as of the date of approval.

Further information on these consistency responsibilities may be found in 15 CFR Part 930 published in the **Federal Register** at page 37142 on June 25, 1979.

A copy of the findings made by the Assistant Administrator in determining that the program meets the requirements of the Coastal Zone Management Act may be obtained upon request from the Office of Coastal Zone Management. Inquiries regarding the Delaware program should be addressed to: John C. Phillips, South Atlantic Regional Manager, Office of Coastal Zone Management, NOAA, Page Building #1, Room 356, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, (202) 254–7494.

M. P. Snidero,

Acting Assistant Administrator for Administration.

[FR Doc. 79–27917 Filed 9–6–79; 8:45 am]

BILLING CODE 3510–08–M

South Atlantic Fishery Management Council's Inter-Council Billfish Steering Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Inter-Council Billfish Steering Committee, established under Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to review and approve rewrite of portions of the Billfish Fishery Management Plan in light of Committee action taken at the St. Thomas meeting on August 14–15, 1979; review draft plan from standpoint of addressing seven national standards; and consider area/season restrictions on foreign longlining in the Atlantic Fishery Conservation Zone.

DATES: The meeting will convene on Monday, September 17, 1979, at 9 a.m., and will adjourn on Tuesday, September 18, 1979, at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at Council Headquarters, One Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite

306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: August 31, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–27833 Filed 9–6–79; 8:45 am]

BILLING CODE 3510–22–M

CONSUMER PRODUCT SAFETY COMMISSION

[Petition CP 78–16]

Child-Resistant Matchbook Covers; Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission has denied a petition to amend its matchbook safety standard. The requested amendment would have exempted certain matchbooks with child-resistant covers from the requirement that friction strips be located on the back cover of a matchbook. Among other reasons for denial of the petition, the Commission believes that this "reverse friction" requirement is needed to address a matchbook risk of injury. In addition, the matchbook standard does not preclude child-resistant designs that utilize reverse friction. Since matchbook child resistance is therefore consistent with reverse friction, no amendment is necessary.

ADDRESS: Copies of the petition and the staff's briefing materials on the petition may be obtained from the Office of the Secretary, 1111 18th Street, N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Douglas L. Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6453.

SUPPLEMENTARY INFORMATION:

A. Background

On April 1, 1976 the Commission proposed for public comment a safety standard for matchbooks (41 FR 14112–20) which contained a requirement for child-resistant covers. The Commission proposed that matchbooks meet a latching cover design requirement or some other design providing equivalent child resistance (a committee would have screened alternative designs for acceptability). The Commission also proposed that friction strips be located on the outside back cover near the bottom of the matchbook ("reverse friction").

Based on the comments received from the public, the Commission decided in August 1976 to exclude child-resistant cover requirements from the final matchbook standard. However, the final standard did contain the reverse friction and other design requirements. The Commission issued the final standard on May 4, 1977 and it became effective on May 4, 1978 (42 FR 22656–70; 16 CFR Part 1202). A matchbook manufacturer, D.D. Bean and Sons Co., and a matchbook cover inventor, Robert R. Giglio, petitioned the U.S. Court of Appeals for the First Circuit for review of the Commission's matchbook standard. D.D. Bean asked the Court to set aside the entire standard. Mr. Giglio challenged the reverse friction requirement and asked the Court to order the Commission to consider his invention of a child-resistant matchbook cover, the "Childguard" matchbook.

On March 31, 1978 the Court set aside portions of the standards, but upheld the reverse friction requirement *(D.D. Bean and Sons* v. *CPSC,* 574 F. 2d 643 (1st Cir. 1978)). In addition, the Court refused to order the Commission to consider Mr. Giglio's Childguard invention *(Giglio* v. *CPSC,* 575 F. 2d 1 (1st Cir. 1978)). (The matchbook standard appears in its current form at 43 FR 53709–11, November 17, 1978.)

B. Petition

On August 3, 1978 Consumer Alert, Inc. petitioned the Commission under section 10 of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2059) for an amendment to the matchbook standard. Under the requested amendement, matchbooks with child-resistant covers that are "accepted" by the Commission would be exempted from the reverse friction requirement.

The petition suggested that a committee of Commission staff personnel would evaluate all child-resistant cover designs submitted to it. Based on specified criteria, the committee would reject or preliminarily accept the design. The Commission would seek public comment on those it accepted preliminarily. After considering the comments, the Commission could publish in the Federal Register final acceptance of a design. Only those matchbooks which comply with an accepted cover design would be exempt from complying with the reverse friction requirement.

In its petition, Consumer Alert asserted that matchbooks present an unreasonable risk of injury and that a requirement for child-resistant matchbook covers is reasonably necessary to eliminate or reduce that risk. The petition discussed and submitted injury data from the National Fire Protection Association, and concluded that the need for child-resistant provisions is greater now than the Commission believed in April 1976. Consumer Alert also claimed that "at least one apparently effective design for a child-resistant matchbook cover does exist today," and attached to the petition a description of the Childguard matchbook.

The petition discussed other factors in support of the requested amendment. Most of these factors were ones which the Commission specifically considers in granting or denying petitions (16 CFR 1110. 11).

C. Decision and Findings

The Consumer Alert petition posed a difficult dilemma for the Commission. An existing provision in the matchbook standard, reverse friction, precludes some existing cover designs that are claimed to be child-resistant, including Mr. Giglio's Childguard matchbook.

Therefore, before resolving this dilemma and before deciding the petition, the Commission considered very carefully whether mandated reverse friction stifles innovation in the field of matchbook child resistance. This consideration included such broad factors as the need for innovation and enterprise and the benefits of responsible safety regulation. It included such specific factors as the nature and the effectiveness of the many matchbook cover designs in the Commission's possession. The Commission evaluated the value of reverse friction; the potential for child resistance in matchbook; the Childguard design; other designs; the risks of injury presented by matchbooks; and the suggestions made in the petition to address the risks. In addition to the staff's briefing materials which discussed these factors, the Commission considered comments from Childguard Research and Development Corporation, from a number of state fire marshals, and from other interested persons.

After balancing all of the safety and economic factors involved, the Commission denies the Consumer Alert petition and make the following findings:

1. The reverse friction provision is "reasonably necessary" to reduce the risk from flaming matchbooks, as held by the U.S. Court of Appeals in *D.D. Bean and Sons, Inc.* v. *CPSC,* 574 F. 2d 643, 649 (1st Cir. 1978). However, until reverse friction has been in effect for a longer period of time, injury data cannot provide a meaningful measure of its effectiveness.

2. A serious risk of injury is presented when children play with matchbooks.

3. The Commission has not yet seen a child-resistant matchbook design which it can determine would be effective in addressing the risk presented by children who play with matchbooks. This includes the Childguard design and many others submitted to the Commission during the last four or more years.

4. A number of claimed child-resistant matchbook designs comply with the reverse friction provision and these can be marketed without restriction under the Commission's matchbook standard.

5. the reverse friction provision leaves room for future innovation in the area of child-resistant matchbooks and the Commission encourages such innovation.

6. In these circumstances the Commission concludes that revoking the reverse friction provision would not be justified by the possibility that an effective child-resistant matchbook would result. If such a matchbook is developed, the Commission can then consider amending its standard to resolve reverse friction, if warranted.

7. The Commission has doubts about the legal validity of the petition's suggested amendment, involving committee evaluation of child-resistant designs.

D. Discussion

The following discussion supports the above findings and may help to clarify them (the categories below discuss the same subjects as the findings, but the numbering does not correspond):

1. *Statutory background.* Whenever an amendment to a consumer product safety standard would involve a "material change," the Commission must follow the procedures and requirements of sections 7 and 9 of the Consumer Product Safety Act (see section 9(e) of the CPSA, 15 U.S.C. 2058(e)). The Commission believes that the amendment requested in the petition would involve a material change, and therefore considered the petition with sections 7 and 9 in mind.

In addition, the Commission considered the following factors: (a) whether matchbooks present an unreasonable risk of injury to children who play with and misuse them; (b) whether the requested amendment to the standard could and would effectively reduce or eliminate that risk, at least as well as the existing reverse friction requirement does; (c) whether the requested amendment could and would reduce or eliminate other matchbook risks, at least as well as the existing reverse friction requirement does; and (d) whether such an amendment is necessary and appropriate. In part, these factors are based on statutory provisions in the CPSA.

2. *Risk of injury.* Based on the available injury information, the Commission believes that the risk of children playing with matches is a serious one. However, the Commission questions the accuracy of some of the injury information that Consumer Alert cited in support of its petition.

For example, the petition cited injury information from a 1976 National Fire Protection Association (NFPA) publication entitled "Facts About Fire." This information, drawn from 1974 data, is that "* * * some 3,750 children die and tens of thousands more suffer painful, tragic burn injuries" yearly in fires in which "the combination of children and matches is responsible." The Commission notes that these estimates cannot be supported with subsequent NFPA data or other existing data. Since the 1974 figures were published, NFPA has made refinements in its data collection which have resulted in changes in the kinds and magnitudes of statistics presented. Therefore, comparable estimates of deaths of children associated with match fires are not available from this source.

The Commission has also reviewed substantiated data from the National Center for Health Statistics (NCHS) which indicate that approximately 1,600 children ages 0–14 die annually in the United States from burns. The majority of these deaths (1,200) are in private dwelling conflagrations. The level of specificity needed to relate these deaths to matches is lacking. However, in general, these substantiated figures are considerably smaller than the 3,750 deaths cited by the petitioner.

The Commission has also considered data from its National Electronic Injury Surveillance System (NEISS). NEISS data discussed in the preamble to the matchbook standard included an estimate that 9,500 match-related accident victims were treated in the nation's hospital emergency rooms in 1975: For calendar year 1977 the NEISS estimate is that 7,100 such victims were treated, but the difference between the 1975 and 1977 NEISS estimates is not statistically significant. The 1978 NEISS data have recently become available, but the matchbook standard did not become effective until May 1978.

3. *Evaluation of child-resistant cover designs.* Before approving any child-resistant cover design to address the risk of children playing with matchbooks, the Commission would have to evaluate and be able to support the effectiveness of the design. The Commission believes that this would be extremely difficult.

Numerous factors might play a role in the evaluation of a specific child-resistant matchbook cover design. These include the dexterity and coordination required to strike the match; the intelligence of the user; the attention span of the user; the age of the user; the complexity and number of discrete motions involved in striking the match; the learning patterns of children; and even the attractiveness of the design to children. Each of these factors potentially affects the likelihood that a particular design would reduce the risk of children playing with matches.

In addition, the child-resistant benefits of a design would have to be balanced against any detrimental effects on other matchbook safety factors. For example, the risk from fragmentation or accidental ignition might be greater with a particular child-resistant design than with existing designs.

The relevant factors would be best evaluated with tests on children. Such tests would have to be conducted in accordance with the Commission's regulations on Protection of Human Subjects (16 CFR Part 1028). The testing benefits must outweigh any hazards associated with the children playing with matchbook designs during the tests (16 CFR 1028.7(b)(3)).

4. *Amendment requested in petition.* Rather than mandating a particular child-resistant cover design, the amendment requested in the petition would delay this decision until particular designs were submitted to the Commission for acceptance. Then, a staff evaluation committee, the public, and ultimately the Commission would evaluate the effectiveness of the designs. However, the problems discussed under *Evaluation of child-resistant cover designs,* above, would apply whenever the evaluation of effectiveness occurs.

The approach of delaying evaluation involves other problems, too. As noted under *Statutory background,* above, sections 7 and 9 of the CPSA would apply to an amendment like the one sought in the petition. Section 7 provides the Commission with authority to issued safety standards consisting of specified types of requirements. Aside from requirements for warnings and instructions, this authority is limited to "[r]equirements as to performance, composition, contents, design, construction, finish, or packaging of a consumer product" (section 7(a)(1)). The Commission has doubts about whether the amended provision requested in

Consumer Alert's petition would be one of these types.

In addition, the Commission believes it would have difficulty making the findings required by section 9(c) before issuing the amendment. These findings involve the need for the amendment, its probable economic effects, its application to the risk of injury, the public interest, and other factors. These findings must be based on evidence in the record. A court may not affirm the amendment unless these findings "are supported by substantial evidence on the record taken as a whole" (section 11(c) of CPSA, 15 U.S.C. 2060 (c)).

Without specific perfomance criteria or a specific matchbook cover design to evaluate, the Commission would have difficulty in making the findings. The effect of the requested amendment would be to postpone the rulemaking until sometime after the Commission issues the amendment in final form. Without a rule (or in this case, an amended rule), evaluation would be difficult, inadequate, or meaningless.

The Commission recognizes that, in April 1976, it proposed cover design acceptance procedures similar to those included in the petition. However, the April 1976 procedures were proposed as just one provision in a child-resistant cover requirement. The requirement also consisted of a latching cover design (§ 1202.4(a)(1); 41 FR 14117, April 1, 1976). The Commission's acceptance of alternate cover designs would have been based in part on their "[equivalence] to the effectiveness of designs that comply with the latching cover requirements" (§ 1202.4(a)(2)(iii)(A)).

The petition suggests use of acceptance procedures for cover designs without requiring any comparison of the cover design possibilities with an existing design or with performance criteria or even with a general concept. If it adopted these procedures, the Commission would be performing a licensing role more than a standard-setting role.

5. *Benefits of reverse friction.* The requested amendment would waive the reverse friction requirement for matchbooks with an acceptable child-resistant cover design. Therefore, if the Commission adopted this amendment, some consumers might be denied the benefits of reverse friction. This is troubling to the Commission because reverse friction does provide safety benefits to matchbook users by principally addressing the risk that flying fragments produced during the striking of a match will ignite the entire matchbook.

In recent coversations with the Commission staff, a Canadian product safety official has supported this belief. Canada's reverse friction has been in effect since 1974 and this official has observed a decline in the number of consumer complaints reporting injuries associated with whole book ignition.

6. *Evaluation of Childguard matchbook design.* The Commission staff has evaluated the Childguard design referenced in the petition, and believes that it is not safer for the adult user than existing matchbooks (those which meet the requirements of the standard). This view is based on the staff's expert opinion (as discussed fully in the briefing materials available from the Office of the Secretary) that consumers would use greater force to strike the Childguard match. This could lead to more incidents of fragmentation than would occur with existing matchbook designs.

The staff has also found that matches from Childguard matchbooks can be ignited by being placed between the cover and the friction strip. In the staff's view, this could make it easier for small children, with limited dexterity, to ignite matches.

Further, the child resistance of the Childguard design relies in part on the fact that children will not find the actual friction strip. However, the Commission staff's experience is that children's observation and imitation of adults will lead them to discover quickly that the friction strip on the reverse of the matchbook is not the one used for ignition of matches. Although the Commission itself has made no judgment regarding the staff's view that the Childguard design may be less safe than existing matchbook designs, it does believe that the Childguard design provides no greater measure of child resistance than existing designs.

7. *Priorities.* The Commission has already considered and rejected, following extensive public comment, the possibility of issuing child-resistant requirements for matchbooks. Devoting additional resources to this matter, especially absent new data, would delay existing priority projects which would address different consumer products and different risks of injury.

8. *Summary.* The Commission has denied Petition CP 78–16 from Consumer Alert, Inc., because it does not believe that the requested amendment is reasonably necessary to reduce or eliminate the risk of injury presented by children who play with matchbooks. The Commission also does not believe that its failure to issue such an amendment would unreasonably expose the petitioner (its members) or other consumers to that risk of injury.

Section 10 of the CPSA (15 U.S.C. 2059) provides that any interested person may petition the Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. As required by section 10, the Commission has published in this **Federal Register** document its reasons for denying the Consumer Alert petition (CP 78–16).

Dated: September 4, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-27937 Filed 9-6-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Flood Control Study at Garapan, Island of Saipan, Commonwealth of the Northern Mariana Islands (CNMI)

August 27, 1979.

AGENCY: U.S. Army Corps of Engineers, Pacific Ocean Division, Honolulu District.

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

SUMMARY: 1. *Brief Description of the Proposed Action.* The U.S. Army Corps of Engineers is studying flooding and related problems in the Garapan area, Island of Saipan, CNMI, in order to develop adequate flood control measures to protect the area from future flood damages.

2. *Brief Description of Reasonable Alternatives.* Both non-structural and structural alternative flood control measures are being considered at this time:

a. No Action. This alternative would preserve the existing setting in Garapan. Periodic flooding and subsequent property damage would still occur.

b. Floodproofing. This is a non-structural plan that would consist of elevation of buildings, walls around structures, and/or waterproof panels and sealing around structure openings.

c. Construction of a collector and disposal system. This would involve a system which would divert flood flows from homes and effectively dispose of storm waters.

3. *Brief Description of the Corps Scoping Process.* a. Proposed Public Involvement Program. The program

involves coordination with other federal agencies, local government offices, community organizations and the general public. Activities will include public workshops, meetings, formal hearings, issuance of public notices and letter responses. A workshop attended by local government representatives and the general public was held at Garapan on 21 March 1979. A formal public meeting is scheduled for May, 1980 at Garapan. All interested agencies, organizations and individuals are invited to participate in the early planning process by providing written comments or oral testimony to the Corps.

b. Identification of Significant Environmental Issues to be Analyzed in Depth in the DEIS.

(1) Effect of alternatives on known and unknown archaeological and historic resources.

(2) Effect of alternatives on the socio-economic climate of the Garapan area.

(c) Possible Assignments for Input into the DEIS under Consideration Among the Lead and Cooperating Agencies and Organizations:

(1) *U.S. Fish and Wildlife Service:* Provision of a planning aid letter and 2(b) report.

(2) *Pacific Studies Institute:* Provide details of archaeological and historic resources within the project area, and recommendations for preservation or mitigation for valuable sites.

(3) *CNMI Historic Preservation Officer:* Evaluation of archaeological/historical survey results and identification of sites (if any) eligible for listing in the National Register of Historic Places.

d. Identification of Other Environmental Review and Consultation Requirements.

(1) "Protection of Historic and Cultural Properties," 36 CFR Part 800 (44 Federal Register, 30 January 1979), pursuant to Section 106 of the National Historic Preservation Act of 1966.

(2) Section 44 of the Clean Water Act.

(3) Fish and Wildlife Coordination Act.

4. A scoping meeting will not be held on this study. Cooperating agencies involved in the planning process have been informed of the proposed study. These agencies include the U.S Fish and Wildlife Service, National Park Service, CNMI Historic Preservation Officer, and other CNMI offices.

5. Under the present schedule the Draft Environmental Impact Statement will be made available to the public in April, 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Russell Takara, U.S. Army Engineer District, Honolulu, Building 230, Fort Shafter, Hawaii 96858, Telephone: (808) 438–9526.

Date: 27 August 1979.

B. R. Schlapak,

Lt. Col., Corps of Engineers, District Engineer.

[FR Doc. 79–27918 Filed 9–6–79; 8:45 am]

BILLING CODE 3710–NN–M

Intent To Prepare Draft Environmental Impact Statement for San Luis Rey River, San Diego County, Calif., Project

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

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

SUMMARY: 1. Proposed Action. The tentatively selected plan for flood control along the San Luis Rey River at Oceanside, San Diego County, California, would provide for approximately 7.2 miles of channel improvements along the river from Murray Road to the Pacific Ocean. The proposed action (identified as the single levee plan) consists of the following elements: a revetted earth-bottom trapezoidal channel, about 2.2 miles long from Murray Road to the Pilgrim Creek confluence (bottom width 400 feet); about 3.5 miles of single levee with 30 groins on the south side of the river with a 30-foot-wide riparian corridor in the 400-foot-wide channel; about 1.5 miles of channel grading which, in general, would be limited to the removal of spoil banks from 1 mile upstream of Interstate 5 to the ocean; some stone-revetted levee along the stream at the ocean; and removal of the sand plug at the mouth of the river. Mitigation measures include removal of the sand plug at the mouth of the river, which will increase the size of the lagoon; removal of the above-mentioned spoil banks, which will increase riparian vegetation in this reach; planting of trees and shrubs outside the landward toe of the levee; designation of a 30-foot-wide riparian cooridor within the channel; a wildlife transition area between the end of the riparian corridor and Whelan Lake; a grain stock seeding program for waterfowl in the channel in the vicinity of Whelan Lake; managed plant communities, developed through natural succession, in the ponding areas on the south side of the river; and an operation and maintenance program of selected cutting.

2. Alternatives. Alternatives considered during preliminary planning included upstream dams, a concrete channel, 100-year levee, grass swale, purchase of 100-year floodway, and removal of the spoil bank and sand plug only. These alternatives were removed from further consideration because they were either not economically justified, were environmentally unacceptable, or did not provide the necessary degree of flood protection. Alternatives considered during the detailed planning process include one double levee and three single levee alternatives. All of the alternatives include removal of spoil banks in the Narrows and removal of the sand plug at the mouth of the river. The Floodway Levee (double levee) plan includes a system of levees at the floodway line with no excavation (base width up to 1,000 feet) from Murray Road to Douglas Drive; a revetted earth-bottom trapezoidal channel (base with 500 feet) from Douglas Drive to about 1 mile upstream from Interstate 5; and some stone-revetted levee along the stream at the ocean. The plan would require an additional ponding area, located on the north side of the river, and local purchase of 126 acres of land upstream from Murray Road. The Single Levee plan (the National Economic Development plan) is described in paragraph No. 1, Proposed Action. The Shortened Single Levee plan would include collector levees east of Douglas Drive and the purchase of 203 acres to preclude development, and about .75 mile of double levee revetted earth-bottom trapezoidal channel (bottom width 400 feet) to the confluence of Pilgrim Creek; from this point to the ocean, the plan is similar to the single levee plan. The Widened Single Levee plan (the Environmental Quality plan) features a system of levees at the floodway line with no excavation (base width up to 1,000 feet) from Murray Road to Douglas Drive, and a revetted earth-bottom trapezoidal channel with a base width of 500 feet from Douglas Drive to the confluence of Pilgrim Creek; from this point to the ocean, the plan is similar to the single levee plan.

3. Scoping Process. Congress has provided funds to initiate an advance engineering and design study for flood control improvements along the San Luis Rey River. A public meeting was held in Oceanside, California, on 11 May 1978 to discuss the Corps flood control study and to form a citizens committee to assist the Corps in continuing the study. The Citizens Advisory Committee has met a number of times (often twice monthly) to help gather information and data, express local desires, and assist in project formulation. Through this process, the single levee plan has been tentatively selected as the recommended plan. Measures to mitigate adverse environmental impacts

of the proposed project have been identified and incorporated into the tentatively selected plan (see Para No. 1). Remaining environmental concerns include impact of the proposed project on wildlife and endangered species utilizing habitats along the San Luis Rey River, size of the ponding areas on the south side of the river, and selection of an acceptable maintenance plan. The Corps has initiated and is conducting extensive coordination efforts with the U.S. Fish and Wildlife Service and the California Department of Fish and Game to resolve potential environmental problems and arrive at a mitigation plan acceptable to wildlife agencies and the Corps.

4. Future Public Meetings. A public meeting will be scheduled sometime during winter 1979/80 to discuss all of the alternatives and obtain public comment, and another public meeting will be held in spring 1980.

5. Publication of DEIS. The draft environmental impact statement is expected to be available to concerned agencies and the interested public for review and comment by the end of 1979.

ADDRESS: Questions about the proposed action and draft environmental impact statement can be answered by Captain Peter C. Glyer, Water Resources Branch, US Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053.

Dated: August 28, 1979.

Gwynn A. Teague,

Colonel, CE, District Engineer.

[FR Doc. 79-27919 Filed 9-6-79; 8:45 am]

BILLING CODE 3710-KF-M

Army Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Hydropower Project at Bradley Lake Near Homer, Alaska

AGENCY: U.S. Army Corps of Engineers, DoD.

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

SUMMARY: 1. The proposed DEIS is to evaluate engineering, environmental and economic feasibility of a dam and lake tap at Bradley Lake, a hydropower plant connected to Bradley Lake by a tunnel and underground penstock, and access roads and transmission lines associated with the project. Surveys and studies of hydrology, foundation and construction materials, geology, environmental resources, and cultural resources will be conducted. The results of the surveys and studies will be used to select project alternatives, design the project, develop mitigation measures, and identify impacts of the projects.

The tentative plan would dam Bradley Lake at the present lake outlet to raise the maximum lake elevation by approximately 90 feet. A lake tap approximately 70 feet beneath the present surface elevation would transport water from the lake through a tunnel and underground penstock approximately 13,400 feet in length to an underground powerhouse. The project would produce approximately 118 megawatts. Power generated by the project would be transmitted to 115 kilovolt lines being constructed by the Homer Electric Association approximately 5 miles northeast of the project site. The transmission line corridor and project access routes have not been selected.

2. Alternatives to the proposed project include the use of non-renewable resources, no action, and tie-in with more distant power sources. Alternative project designs include alternative powerhouse and tailrace locations, dam and spillway elevations, building material sources, access routes and transmission corridor routes. Diversion of part of the upper Nuka River will be considered.

3. Coordination has been initiated with concerned State and Federal agencies as required by the Fish and Wildlife Coordination Act of 1956. Participation by affected Federal, State, and local agencies and by private organizations and individuals will be encouraged at public meetings to be held during the DEIS scoping process and during the data acquisition and analysis phase.

Significant issues to be analyzed in the DEIS are the selection of construction alternatives and mitigation measures, and the impacts of the proposed project on the biological resources and the socio-economic conditions of the region.

4. A public meeting and an interagency meeting will be held during the DEIS scoping progress.

5. The DEIS is expected to be available for public review in September 1981.

ADDRESS: Questions about the proposed project and the DEIS can be answered by: William D. Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: August 27, 1979

Lee R. Nunn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-27839 Filed 9-6-79; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Columbia Gas Transmission Corp., et al.; Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 27, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16212/79-1734
2. 17-109-21955
3. 102 103
4. The Lousiiana Land & Exploration Co
5. LL&E Fee #1-156885
6. Bayou Jean La Croix
7. Terrebonne LA
8. 548.0 million cubic feet
9. August 13, 1979
10. Columbia Gas Transmission Corp

1. 79-16213/79-1735
2. 17-109-21955
3. 102 103
4. The Louisiana Land & Exploration Co
5. LL&E Fee #1-D-157893
6. Bayou Jean La Croix
7. Terrebonne LA
8. 73.0 million cubic feet
9. August 13, 1979
10. Columbia Gas Transmission Corp

1. 79-16214/79-1737
2. 17-109-21769
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #3-151682
6. Bayou Penchant
7. Terrebonne LA
8. 519.0 million cubic feet
9. August 13, 1979
10. J P Stevens and Company Inc

1. 79-16215/79-1738
2. 17-109-21530
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #2-146434

6. Lake Hatch
7. Terrebonne LA
8. 365.0 million cubic feet
9. August 13, 1979
10.

1. 79-16216/79-1684
2. 17-075-22469
3. 102
4. Gulf Oil Corporation
5. SL 195 QQ #284 Quarantine Bay
6. Quarantine Bay
7. Plaquemines LA
8. 60.0 million cubic feet
9. August 13, 1979
10. United Gas Pipeline Company

1. 79-16217/79-1685
2. 17-075-22487
3. 102
4. Gulf Oil Corporation
5. VU 65 B L D E #150 West Bay
6. West Bay
7. Plaquemines LA
8. 55.0 million cubic feet
9. August 13, 1979
10. Texas Eastern Transmission Corp, United Gas Pipeline Co

1. 79-16218/79-1686
2. 17-075-22312
3. 102
4. Gulf Oil Corporation
5. VU 65 B L D E #146 West Bay
6. West Bay
7. Plaquemines LA
8. 29.0 million cubic feet
9. August 13, 1979
10. Texas Eastern Transmission Corp, United Gas Pipeline Co

1. 79-16219/79-934
2. 17-053-20481
3. 102
4. Henry Goodrich D/B/A Goodrich Oil Co
5. Goodrich Oil Co-Pelto Oil Co #1
6. Mermentau West
7. Jefferson Davis LA
8. 180.0 million cubic feet
9. August 13, 1979
10. United Gas Pipeline Company

1. 79-16220/79-939
2. 17-089-20337
3. 102
4. Gulf Oil Corporation
5. Delta Securities Co Inc #135
6. Bayou Couba
7. St Charles LA
8. 15.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipeline

1. 79-16221/79-940
2. 17-089-20352
3. 102
4. Gulf Oil Corporation
5. Delta Securities Co Inc #137
6. Bayou Couba
7. St Charles LA
8. 40.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipeline

1. 79-16222/79-941
2. 17-089-20353
3. 102
4. Gulf Oil Corporation
5. Delta Securities Company Inc #138
6. Bayou Couba
7. St Charles Parish, LA
8. 300.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipeline

1. 79-16223/79-943
2. 17-089-20355
3. 102
4. Gulf Oil Corporation
5. Delta Securities Co Inc #139
6. Bayou Couba
7. St Charles LA
8. 22.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipeline

1. 79-16224/79-944
2. 17-089-20356
3. 102
4. Gulf Oil Corporation
5. Delta Securities Co Inc #140
6. Bayou Couba
7. St Charles LA
8. 75.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipeline

1. 79-16225/79-949
2. 17-075-22486
3. 102
4. Gulf Oil Corporation
5. SL 195 QQ #287-D
6. Quarantine Bay
7. Plaquemines LA
8. 767.0 million cubic feet
9. August 13, 1979
10. United Gas Pipeline Co

1. 79-16322/79-1695
2. 17-075-22143
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #9-151430
6. Lake Washington
7. Plaquemines LA
8. 200.0 million cubic feet
9. August 14, 1979
10. Mid-Louisiana Gas Company

1. 79-16323/79-1694
2. 17-075-22137
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #8-151359
6. Lake Washington
7. Plaquemines LA
8. 183.0 million cubic feet
9. August 14, 1979
10. Mid-Louisiana Gas Company

1. 79-16324/79-1693
2. 17-075-22079
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #7-150414
6. Lake Washington
7. Plaquemines LA
8. 204.0 million cubic feet
9. August 14, 1979
10. Mid-Louisiana Gas Company

1. 79-16325/79-1692
2. 17-075-22073
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #6-150314
6. Lake Washington
7. Plaquemines LA
8. 183.0 million cubic feet
9. August 14, 1979
10. Mid-Louisiana Gas Company

Montana Board of Oil and Gas Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16372/5-79-198
2. 25-005-21983
3. 102
4. Tricentrol United States Inc
5. Weaver 7-3-26-17
6. Wildcat—Sherard Area
7. Blaine MT
8. 283.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16327
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Skelly Penrose B Unit No 39
6. Langlie-Mattix
7. Lea NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Getty Oil Company Natural Gas Plant

1. 79-16328
2. 30-025-00000
3. 108
4. Albert Gackle (Operator) et al
5. Rodman Jones #1
6. Jalmat-Tansill-Yates-Seven Rivers P
7. Lea NM
8. 10.5 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16329
2. 30-025-00000
3. 108
4. Albert Gackle (Operator) et al
5. Mobil-King #1
6. Langlie Mattix Seven River Queen
7. Lea NM
8. 6.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79-16330
2. 30-025-00000
3. 108
4. Albert Gackle (Operator) et al
5. Sinclair B State #4
6. Jalmat-Tansill-Yates-Seven Rivers P
7. Lea NM
8. 11.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16331
2. 30-025-00000
3. 108

4. Albert Gackle (Operator) et al
5. R W Cowden C #4
6. Jalmat-Tansill-Yates-Seven Rivers P
7. Lea NM
8. 10.5 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79–16332
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No 86
6. Eumont
7. Lea NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company, Warren Petroleum Corp

1. 79–16333
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No 99
6. Eumont
7. Lea NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company, Warren Petroleum Corp

1. 79–16334
2. 30–025–26263
3. 103
4. Doyle Hartman Oil Operator
5. J Hiram Moore State No 1
6. Penrose-Skelly
7. Lea NM
8. 119.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79–16335/HWT–352
2. 30–025–25921
3. 103
4. Amoco Production Company
5. Cone /B/ No 2
6. House Drinkard
7. Lea NM
8. 1059.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Co

1. 79–16336
2. 30–025–26212
3. 103
4. Warren Petroleum Co Div/Gulf Oil
5. Eaves Well No 7
6. Undesignated Wantz Granite Wash
7. Lea NM
8. 93.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79–16337
2. 30–025–00000
3. 103
4. Warren Petroleum Co Div/Gulf Oil
5. Mark Well No 8
6. Wantz Granite Wash
7. Lea NM
8. .0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79–16338
2. 30–025–26192
3. 103
4. Union Oil Company of Calif
5. Pipeline 16 State #1
6. Quail Ridge-Bone Springs
7. Lea NM
8. 146.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79–16339
2. 30–005–00000
3. 103
4. El Ran Inc
5. Roberts #3 Prod Unit #17163
6. Chaveroo (San Andres)
7. Chaves NM
8. 16000.0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Co

1. 79–16340
2. 30–015–22809
3. 103
4. Southland Royalty Comompany
5. Parkway A State Com #1
6. Undesignated
7. Eddy NM
8. 100.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79–16341
2. 30–015–22562
3. 103
4. Gulf Oil Corporation
5. Eddy Gz State Com Well No 1
6. Undesignated Strawn
7. Eddy NM
8. 9.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79–16342
2. 30–025–26238
3. 103
4. Warren Petroleum Co Div/Gulf Oil
5. Lea 30 State Well No 1
6. Airstrip Wolfcamp
7. Lea NM
8. .0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79–16343
2. 30–005–20657
3. 103
4. Moranco
5. Western Reserves 32 State No 3
6. Tom-Tom (San Andres)
7. Chaves NM
8. 7.0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Company

1. 79–16344
2. 30–025–10745
3. 108
4. Millard Deck
5. Kelly State #4
6. Langlie Mattix Seven Rivers Queen
7. Lea NM
8. 4.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79–16345
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Lovington San Andres Unit #7
6. Lovington San Andres
7. Lea NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79–16346
2. 30–025–00000
3. 108
4. Albert Gackle (Operator) et al
5. George Etz #4
6. Jalmat-Tansill-Yates-Seven-Rivers P
7. Lea, NM
8. 6.5 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79–16347
2. 30–015–22820
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F 363
6. Empire ABO
7. Eddy, NM
8. 69.0 million cubic feet
9. August 14, 1979
10. Amoco Production Company, Phillips Petroleum Co.

1. 79–16348
2. 30–025–00000
3. 108
4. Sohio Natural Resources Company
5. Pruitt #1
6. Penrose Skelly Grayburg
7. Lea, NM
8. 2.0 million cubic feet
9. August 14, 1979
10. Getty Oil Company.

1. 79–16349
2. 30–025–00000
3. 108
4. Sohio Natural Resources Company
5. Grizzell #1
6. Drinkard
7. Lea, NM
8. 7.0 million cubic feet
9. August 14, 1979
10. Getty Oil Company.

1. 79–16350
2. 30–025–10823
3. 108
4. Millard Deck
5. May A #1
6. Langlie Mattix Queen
7. Lea, NM
8. 2.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas.

1. 79–16351
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Lovington San Andres Unit #53
6. Lovington San Andres
7. Lea, NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company.

1. 79–16352
2. 30–015–00000
3. 108
4. David Fasken
5. Fasken-Brown-Yates No. 1
6. Atoka (Penn)
7. Eddy, NM
8. 7.2 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Company.

1. 79–16353
2. 30–015–22712
3. 103
4. Yates Petroleum Corporation
5. Niles Ka Com No. 1

6. Und Wolfcamp
7. Eddy, NM
8. .0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Co.

1. 79–16354
2. 30–025–00000
3. 108 denied
4. Harper Oil Company
5. Sarkeys 1 (Drinkard)
6. Drinkard
7. Lea, NM
8. 3.0 million cubic feet
9. August 14, 1979
10. Gulf Oil Corporation (Warren Pet Co.) Warren Petroleum Corp.

1. 79–16355
2. 30–025–00000
3. 108 Denied
4. Harper Oil Company
5. Sarkeys 3 (ABO)
6. Wantz ABO
7. Lea, NM
8. 1.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company, Warren Petroleum Corp

1. 79–16356
2. 30–015–22800
3. 103
4. Yates Petroleum Corporation
5. Upham Kn No. 1
6. West Atoka Morrow
7. Eddy, NM
8. .0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Company.

1. 79–16357
2. 30–015–22591
3. 102
4. Delta Drilling Co
5. South Culebra Bluff No. 2
6. Wildcat
7. Eddy, NM
8. 730.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Co.

1. 79–16358
2. 30–025–00000
3. 108
4. Albert Gackle (Operator) et al
5. Mobil-King #2
6. Langlie Mattix Seven Rivers Queen
7. Lea, NM
8. 3.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company.

1. 79–16359
2. 30–025–00000
3. 108
4. Albert Gackle (Operator) et al
5. H E Esmond A #1
6. Jalmat Yates Seven Rivers
7. Lea, NM
8. 18.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company.

1. 79–16360
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Lovington Paddock Unit #79
6. Lovington Paddock
7. Lea, NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company.

1. 79–16361
2. 30–025–00000
3. 108
4. Albert Gackle (Operator) et al
5. R W Cowden B #1
6. Jalmat-Tansill-Yates-Seven Rivers P
7. Lea, NM
8. 3.5 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company.

1. 79–16362
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 30
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company, Warren Petroleum Corp.

1. 79–16363
2. 30–025–00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 42
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company, Warren Petroleum Corp.

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s).

1. 79–16373/00004
2. 35–129–20289
3. 103
4. Grace Petroleum Corporation
5. Berry No. 2–12
6. West Cheyene
7. Roger Mills, OK
8. 4417.2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company.

1. 79–16374/00132
2. 35–045–20676
3. 103
4. Hoover & Bracken Energies
5. State #1–12
6. Higgins
7. Ellis, OK
8. 730.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co., Laclede Gas Company.

1. 79–16375/00036
2. 35–059–00000
3. 102
4. Amarex Inc
5. C R Smith #1
6. NE Fort Supply
7. Harper, OK
8. 270.0 million cubic feet
9. August 14, 1979
10.

1. 79–16376/00022
2. 35–051–00000
3. 103
4. Amarex Inc
5. Sabine Royalty Corp et al. #1
6. NW Chitwood
7. Grady, OK
8. 131.2 million cubic feet
9. August 14, 1979
10. Oklahoma Natural Gas

1. 79–16377/00160
2. 35–007–21367
3. 103
4. Mesa Petroleum Co
5. Adams 1–20
6. Mocane Chester
7. Beaver, OK
8. .0 million cubic feet
9. August 14, 1979
10. Colorado Interstate Gas Company, Northern Natural Gas Company.

1. 79–16378/00141
2. 35–151–20816
3. 103
4. Imperial Oil Company
5. Bouziden No 1–23
6. NE Falkner
7. Woods, OK
8. 100.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipe Line Company.

1. 79–16379/00159
2. 35–093–21536
3. 103
4. Red Eagle Oil Co
5. Hubble No 1
6. Ringwood
7. Major, OK
8. 100.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79–16380/00136
2. 35–059–20645
3. 103
4. Elder & Vaughn
5. Holmes #1
6. Laverne-Chester (Pool No 91)
7. Harper, OK
8. 125.0 million cubic feet
9. August 14, 1979
10. Michigan Wisconsin Pipeline Co.

1. 79–16381/00131
2. 35–043–20897
3. 103
4. John A Taylor
5. Chain Ranch #1–33
6. Putnam
7. Dewey, OK
8. 128.0 million cubic feet
9. August 14, 1979
10. Delhi Gas Pipe Line Corp.

1. 79–16382/00148
2. 35–073–22067
3. 103
4. Texasgulf Inc
5. Marlin et al Bollenbach No 1
6. North Okarche
7. Kingfisher OK
8. 275.0 million cubic feet
9. August 14, 1979
10.

1. 79–16383/00149

2. 35–017–21059
3. 103
4. Quanah Company
5. Montgomery #1
6. Yukon-Richland
7. Canadian OK
8. 300.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79–16384/00104
2. 35–129–20247
3. 103
4. Grace Petroleum Corporation
5. Tracy #1–31
6. West Cheyenne
7. Roger Mills OK
8. 2372.1 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79–16385/00122
2. 35–017–20763
3. 103
4. Helmerich & Payne Inc
5. Wilkerson No 2
6. East Hinton
7. Canadian OK
8. 1825.0 million cubic feet
9. August 14, 1979
10. Michigan Wisconsin Pipe Line Company
Oklahoma Gas & Electric Company

1. 79–16386/00001
2. 35–151–20735
3. 103
4. W B Osborn Jr (Operator)
5. Kletke #2
6. Northwest Avard
7. Woods OK
8. 60.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipeline

1. 79–16387/00002
2. 35–129–20292
3. 103
4. Grace Petroleum Corporation
5. Berry No 1–7
6. West Cheyenne
7. Roger Mills OK
8. 1054.1 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79–16388/00003
2. 35–129–20249
3. 103
4. Grace Petroleum Corporation
5. Swope #1
6. Reydon
7. Roger Mills OK
8. 21.9 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79–16389/00006
2. 35–017–20923
3. 103
4. Sunrise Exploration Inc
5. Riekensberg-McKay #1
6. Lookeba
7. Canadian OK
8. 640.0 million cubic feet
9. August 14, 1979
10. Michigan-Wisconsin Pipe Line Co

1. 79–16390/00007
2. 35–043–20920
3. 103
4. OFT Exploration Inc
5. IVA Haun 1–06
6. Webb Putnam Section 6–17N–17W
7. Dewey OK
8. 2400.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipe Line Co

1. 79–16391/00009
2. 35–153–20843
3. 103
4. OFT Exploration Inc
5. Finnegan 1–04
6. N E Cedardale Section 4–22N–18W
7. Woodward OK
8. 150.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79–16392/00010
2. 35–153–20863
3. 103
4. OFT Exploration Inc
5. Virginia Gonser 1–02
6. N E Cedardale Section 2–22N–18W
7. Dewey OK
8. 100.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79–16393/00012
2. 35–153–20836
3. 103
4. OFT Exploration Inc
5. Patricia Trost 1–33
6. N E Cedardale Section 33–23N–18W
7. Woodward OK
8. 75.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79–16394/00013
2. 35–153–20832
3. 103
4. OFT Exploration Inc
5. Gertie Walters 1–34
6. N E Cedardale Section 34–23N–18W
7. Woodward OK
8. 300.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79–16395/00014
2. 35–153–20875
3. 103
4. OFT Exploration Inc
5. Mary Benbrook 1–27
6. Section 27–23N–18W
7. Woodward OK
8. 50.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79–16396/00015
2. 35–007–00000
3. 103
4. Amarex Inc
5. Alva Howard #1–33
6. Mocan-Laverne
7. Beaver OK
8. 365.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79–16397/00023
2. 35–075–00000
3. 103
4. Amarex Inc
5. Cline Unit #1–12
6. Gotebo
7. Kiowa OK
8. 195.4 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Company

1. 79–16398/00018
2. 35–139–21095
3. 103
4. Mobil Oil Corporation
5. Mueller (62) Unit #2
6. Guymon-Hugoton
7. Texas OK
8. 200.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company

1. 79–16399/00017
2. 35–139–21092
3. 103
4. Mobil Oil Corporation
5. Langley (67) Unit #2
6. Guymon-Hugoton
7. Texas OK
8. 200.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company

1. 79–16400/00020
2. 35–139–21096
3. 103
4. Mobil Oil Corporation
5. R A Parker (111) Unit #2
6. Guymon-Hugoton
7. Texas OK
8. 200.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company

1. 79–16401/00016
2. 35–139–20930
3. 103
4. Mobil Oil Corporation
5. Johnson EST (76) Unit #2
6. Guymon-Hugoton
7. Texas OK
8. 200.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company

1. 79–16402/00019
2. 35–139–21087
3. 103
4. Mobil Oil Corporation
5. Weeden #2 (182) unit #3
6. Guymon-Hugoton
7. Texas OK
8. 200.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company

1. 79–16403/00107
2. 35–013–20050
3. 103
4. Grace Petroleum Corporation
5. Godfrey #1–22
6. Lakeside
7. Bryan OK
8. 345.0 million cubic feet
9. August 14, 1979
10. Pioneer Gas Products Company

1. 79–16404/00100
2. 35–025–00000
3. 103
4. Gulf Energy Producing Company
5. Taylor Well No 1–23
6. Keyes Field
7. Cimarron OK
8. 150.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipeline Company

1. 79–16405/00098
2. 35–077–20162
3. 103
4. John C. Oxley
5. Erle Ranch No 1

6. Blocker Southeast
7. Latimer OK
8. 399.0 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Company

1. 79-16406/00090
2. 35-003-20561
3. 103
4. Okmar Oil Company
5. Davis #2-23
6. Goltry
7. Alfalfa OK
8. 40.0 million cubic feet
9. August 14, 1979
10. Union Texas Petroleum

1. 79-16407/00074
2. 35-135-20050
3. 103
4. John C Oxley
5. Kelley No 1
6. Paw Paw Northeast
7. Sequoyah OK
8. 585.5 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Company

1. 79-16408/00043
2. 35-047-21342
3. 103
4. Union Texas Petroleum
5. L M Atherton #2
6. Waukomis Sw Sec 3 T21N R7W
7. Garfield OK
8. 55.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipeline Co

Texas Railroad Commission, Oil and Gas Division

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16226/04810
2. 42-211-30712
3. 103
4. Gulf Oil Corporation
5. Isaacs #2-207
6. Red Deer Creek
7. Hemphill TX
8. 592.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co

1. 79-16227/04919
2. 42-115-31152
3. 103
4. Amoco Production Company
5. Arther Nolen A well No 1
6. Lamesa West/Spraberry
7. Dawson TX
8. 4.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company Northern Natural Gas Company

1. 79-16228/04811
2. 42-211-30700
3. 103
4. Gulf Oil Corporation
5. Isaacs #2-211
6. S W Canadian
7. Hemphill TX
8. 210.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Company

1. 79-16229/04814
2. 42-211-30961
3. 103
4. Gulf Oil Corporation
5. Isaacs #4-207
6. Red Deer Creek
7. Hemphill TX
8. 406.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co

1. 79-16230/04853
2. 42-079-30885
3. 103
4. Amoco Production Company
5. Landreth B No 5A
6. Bledsoe (San Andres)
7. Cochran TX
8. 54.8 million cubic feet
9. August 14, 1979
10. Cities Service Company

1. 79-16231/04835
2. 42-211-31035
3. 103
4. Kerr-McGee Corporation
5. Petree #22-5
6. Hemphill (Granite Wash)
7. Hemphill TX
8. 265.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Company, Kansas-Nebraska Pipeline, Panhandle Eastern Pipeline Co

1. 79-16232/04834
2. 42-211-30708
3. 103
4. Kerr-McGee Corporation
5. Mary Jones #3
6. Hemphill (Granite Wash)
7. Hemphill TX
8. 180.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Company, Kansas-Nebraska Pipeline, Panhandle Eastern Pipeline Co

1. 79-16233/04833
2. 42-211-30879
3. 103
4. Kerr-McGee Corporation
5. Petree #3
6. Hemphill (Granite Wash)
7. Hemphill TX
8. 43.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Company, Kansas-Nebraska Pipeline, Panhandle Eastern Pipeline Co

1. 79-16234/04812
2. 42-211-30948
3. 103
4. Gulf Oil Corporation
5. Isaacs #2-208
6. S W Canadian
7. Hemphill TX
8. 21.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co

1. 79-16235/04860
2. 42-115-31200
3. 103
4. Petroleum Expl & Dev Funds Inc
5. Crow #1
6. Patricia NE (Spraberry)
7. Dawson TX
8. 5.1 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79-16236/04862
2. 42-219-32469
3. 103
4. Amoco Production Company
5. Northwest Mallet Unit No 154
6. Slaughter
7. Hockley TX
8. 5.2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16237/04631
2. 42-391-31288
3. 103
4. Continental Oil Co
5. J F Welder Heirs -R- No 7 79548
6. West Vidauri (4800)
7. Refugio TX
8. 181.5 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipe Line Company

1. 79-16238/04636
2. 42-323-31254
3. 103
4. Continental Oil Co
5. N J Chittim No 546 02082
6. Sacatosa (San Miguel #1. SAND)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company

1. 79-16239/04637
2. 42-131-32511
3. 103
4. Continental Oil Co
5. Robert Driscoll No 130-L 77830
6. Conoco Driscoll (Govt Wells 1 UP)
7. Duval TX
8. 84.0 million cubic feet
9. August 14, 1979
10. Transco Gas Pipe Line (C-4005) City of Benavides

1. 79-16240/04638
2. 42-367-31463
3. 103
4. Ben J Taylor
5. Rhoades No 2
6. Carterville (Strawn-Upper)
7. Parker TX
8. 100.0 million cubic feet
9. August 14, 1979
10. Lone Star Gas Company

1. 79-16241/04690
2. 42-335-31320
3. 103
4. Sun Oil Company (Delaware)
5. V T McCabe B No 28
6. Jameson North (Strawn)
7. Mitchell TX
8. 37.0 million cubic feet
9. August 14, 1979
10. Lone Star Gas Company

1. 79-16242/04686
2. 42-335-30842
3. 103
4. Sun Oil Company (Delaware)
5. V T McCabe B No 12
6. Jameson North
7. Mitchell TX
8. 110.0 million cubic feet
9. August 14, 1979

10. Lone Star Gas Company
1. 79–16243/04710
2. 42–135–32979
3. 103
4. Cities Service Company
5. Scharbauer G #8
6. Goldsmith
7. Ector TX
8. 1.2 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company
1. 79–16244/04720
2. 42–211–31034
3. 103
4. Kerr-McGee Corporation
5. Mary Jones #5
6. Hemphill (Granit Wash)
7. Hemphill TX
8. 285.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co Kansas—Nebraska Pipeline Panhdle Eastern Pipeline Co
1. 79–16245/04798
2. 42–211–30925
3. 103
4. Gulf Oil Corporation
5. Isaacs #3–207
6. Red Deer Creek
7. Hemphill TX
8. 531.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co
1. 79–16246/04780
2. 42–211–30925
3. 103
4. Kerr-McGee Corporation
5. Petree #4
6. Hemphill (Granite Wash)
7. Hemphill TX
8. 152.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Company Kansas-Nebraska Pipeline Panhandle Eastern Pipeline Co
1. 79–16247/04799
2. 42–211–30886
3. 103
4. Gulf Oil Corporation
5. Ora Morris #2–92
6. Alpar
7. Hemphill TX
8. 82.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Co
1. 79–16248/04804
2. 42–109–31355
3. 103
4. Gulf Oil Corporation
5. Txl Cx (Nct–A) No 8
6. Geraldine (Ford)
7. Culberson TX
8. 11.0 million cubic feet
9. August 14, 1979
10. Continental Oil & Gas Co
1. 79–16249/04809
2. 42–211–30958
3. 103
4. Gulf Oil Corporation
5. Isaacs #4–209
6. S W Canadian
7. Hemphill TX
8. 366.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co
1. 79–16250/04808
2. 42–211–30899
3. 103
4. Gulf Oil Corporation
5. Isaacs #2–209
6. Red Deer Creek
7. Hemphill TX
8. 331.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co
1. 79–16251/04596
2. 42–427–31191
3. 103
4. Continental Oil Co
5. T B Slick Est—A No 150–U 74078
6. Rincon (B–2 Frio)
7. Starr TX
8. 109.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline Co
1. 79–16252/04600
2. 42–131–32513
3. 103
4. Continental Oil Co
5. Robert Driscoll No 131–U 77831
6. Conoco Driscoll
7. Duval TX
8. 147.0 million cubic feet
9. August 14, 1979
10. Transco Gas Pipe Line City of Benavides
1. 79–16253/04604
2. 42–323–31282
3. 103
4. Continental Oil Co
5. N J Chittim No 7118 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79–16254/04605
2. 42–323–31291
3. 103
4. Continental Oil Co
5. N J Chittim No 6409 02082
6. Sacatosa (San Miguel No 1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lo Vaca Gathering Company
1. 79–16255/04606
2. 42–323–31218
3. 103
4. Continental Oil Co
5. N J Chittim No 6925 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79–16256/04609
2. 42–323–31180
3. 103
4. Continental Oil Co
5. N J Chittim No 4061 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lo Vaca Gathering Company
1. 79–16257/04614
2. 42–233–31299
3. 103
4. Continental Oil Co
5. N J Chittim No 7020 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79–16258/04615
2. 42–131–32448
3. 103
4. Continental Oil Co
5. Robert Driscoll No 1239 73901
6. Conoco Driscoll
7. Duval TX
8. 123.0 million cubic feet
9. August 14, 1979
10. Transco Gas Pipe Line City of Benavcides
1. 79–16259/04619
2. 42–323–31178
3. 103
4. Continental Oil Co
5. N J Chittim No 6659 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79–16260/04616
2. 42–323–31283
3. 103
4. Continental Oil Co
5. N J Chittim No 6410 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79–16261/04630
2. 42–505–30941
3. 103
4. Continental Oil Co
5. J G Rathmell A No 1 75826
6. Hundido (Lobo)
7. Zapata TX
8. 103.5 million cubic feet
9. August 14, 1979
10. Houston Pipeline Company
1. 79–16262/04628
2. 42–467–30412
3. 103
4. Continental Oil Co
5. Merle Shaw Oil Unit No 1 02078
6. East Fruitvale (Rodessa)
7. Van Zandt TX
8. 69.0 million cubic feet
9. August 14, 1979
10. Delhi Gas Pipeline Corporation
1. 79–16263/04625
2. 42–323–31279
3. 103
4. Continental Oil Co
5. N J Chittim No 6661 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79–16264/04624
2. 42–323–31221
3. 103
4. Continental Oil Co
5. N J Chittim No 6547 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company

1. 79-16265/04622
2. 42-073-30323
3. 103
4. Continental Oil Co
5. Coon Creek Gas Unit No 1 78493
6. Coon Creek (Rodessa)
7. Cherokee TX
8. 60.9 million cubic feet
9. August 14, 1979
10.

1. 79-16266/04621
2. 42-323-31215
3. 103
4. Continental Oil Co
5. N J Chittim No 7114 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company

1. 79-16267/04620
2. 42-323-31219
3. 103
4. Continental Oil Co
5. N J Chittim No 6645 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company

1. 79-16268/00642
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Satterfield #2 33870
6. East Panhandle
7. Wheeler TX
8. 1.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16269/00641
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Satterfield #1 33869
6. East Panhandle
7. Wheeler TX
8. 1.7 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16270/00643
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Trostle #1 35026
6. East Panhandle
7. Wheeler TX
8. .9 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16271/00644
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Lisle #1 33874
6. East Panhandle
7. Wheeler TX
8. 6.8 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16272/00645
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Howe A-1 33857
6. East Panhandle
7. Wheeler TX
8. 4.2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-1616273/00646
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Poole #1 35027
6. East Panhandle
7. Wheeler TX
8. 14.4 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16274/00647
2. 42-087-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Knoll #1 26337
6. East Panhandle
7. Collingsworth TX
8. 7.8 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16275/00649
2. 42-195-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Brooks #1 49745
6. Farwell Creek/Lower Morrow
7. Hansford TX
8. 8.7 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipeline

1. 79-16276/00651
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Bearrow A-1 33768
6. East Panhandle
7. Wheeler TX
8. 15.7 million cubic feet
9. August 14, 1979
10. Warren Petroleum

1. 79-16277/00652
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Harvey B-1 33770
6. East Panhandle
7. Wheeler TX
8. 5.4 million cubic feet
9. August 14, 1979
10. Warren Petroleum

1. 79-16278/00653
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Martin #1 26346
6. East Panhandle
7. Wheeler TX
8. 9.2 million cubic feet
9. August 14, 1979
10. Warren Petroleum

1. 79-16279/00654
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Fields #1 33873
6. East Panhandle
7. Wheeler TX
8. 17.4 million cubic feet
9. August 14, 1979
10. Warren Petroleum

1. 79-16280/00655
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Lisle A-1 33859
6. East Panhandle
7. Wheeler TX
8. 11.3 million cubic feet
9. August 14, 1979
10. Warren Petroleum

1. 79-16281/00656
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Morgan A-1 33878
6. East Panhandle
7. Wheeler TX
8. 18.2 million cubic feet
9. August 14, 1979
10. Warren Petroleum

1. 79-16282/00658
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. O Gorman #2 33772
6. East Panhandle
7. Wheeler TX
8. 12.5 million cubic feet
9. August 14, 1979
10. Warren Petroleum

1. 79-16283/00659
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Henry #1 36315
6. East Panhandle
7. Wheeler TX
8. 5.6 million cubic feet
9. August 14, 1979
10. Warren Petroleum

1. 79-16284/00660
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. O Gorman A-1 33854
6. East Panhandle
7. Wheeler TX
8. 13.3 million cubic feet
9. August 14, 1979
10. Warren Petroleum

1. 79-16285/00661
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Ogorman B-2 33856
6. East Panhandle
7. Wheeler TX
8. 2.9 million cubic feet
9. August 14, 1979
10. Warren Petroleum

1. 79-16286/00664
2. 42-427-00770
3. 108
4. Joseph G Gibson
5. A E Guerra Jr NCT-1 #1
6. La Reforma
7. Starr TX
8. 11.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline Co

1. 79-16287/00815
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp B-3

6. Ozona Canyon Sand Field
7. Crockett County TX
8. 13.8 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79–16288/00669
2. 42–365–00786
3. 108
4. Joseph G Gibson
5. T C Adams NCT–1 #E–1–T
6. Bethany
7. Panola TX
8. 4.0 million cubic feet
9. August 14, 1979
10. United Gas Pipeline Company

1. 79–16289/00670
2. 42–293–00615
3. 108
4. Joseph G Gibson
5. Janie B Battle NCT–1 O/A #1–C
6. Oletha
7. Limestone TX
8. 2.6 million cubic feet
9. August 14, 1979
10. Texas Utilities Fuel Company

1. 79–16290/00720
2. 42–175–00000
3. 108
4. M D Abel
5. Z A Booth #1 ID#70728
6. South Albrecht (1950)
7. Goliad TX
8. 11.0 million cubic feet
9. August 14, 1979
10. United Gas Pipeline Company

1. 79–16291/00812
2. 42–105–00000
3. 108
4. Suburban Propane Gas Corporation
5. Henderson No B–1
6. Ozona Canyon Sand Field
7. Crockett County TX
8. 11.2 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79–16292/00813
2. 42–105–00000
3. 108
4. Suburban Propane Gas Corporation
5. Henderson No C–1
6. Ozona Canyon Sand Field
7. Crockett TX
8. .0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79–16293/00814
2. 42–105–00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp et al B–1
6. Ozona Canyon Sand Field
7. Crockett TX
8. 8.5 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79–16294/00128
2. 42–383–31211
3. 103
4. Texas Oil & Gas Corp
5. Noelke 8 #1 76805
6. Benedum NE (Bend Lime)
7. Reagan TX
8. 350.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79–16295/00129
2. 42–505–00000
3. 108
4. Gulf Energy Producing Company
5. Joseph Ramirez #Q–2
6. Lopeno (Queen City Upper)
7. Zapata TX
8. 14.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline

1. 79–16296/00132
2. 42–505–00000
3. 108
4. Gulf Energy Producing Company
5. Manuel Ramirez #2
6. Lopeno (Reklaw B)
7. Zapata TX
8. 4.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline

1. 79–16297/00127
2. 42–295–30500
3. 103
4. Texas Oil & Gas Corp
5. Harrelson #1 76441
6. Follett (Morrow)
7. Lipscomb TX
8. 750.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79–16298/00088
2. 42–355–31249
3. 103
4. Pennzoil Producing Company
5. E A Kinsey No B–3 (U)
6. Aqua Dulce
7. Nueces TX
8. 250.0 million cubic feet
9. August 14, 1979
10. United Gas Pipeline Company

1. 79–16299/00133
2. 42–505–00000
3. 108
4. Gulf Energy Producing Company
5. Avelino Guerra #1–A–LT
6. Lopeno (Wilcox G)
7. Zapata TX
8. 7.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline

1. 79–16300/00305
2. 42–365–00000
3. 108
4. Erso Inc
5. Carthage Unit 5–IT
6. Carthage
7. Panola TX
8. 8.8 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline

1. 79–16301/00349
2. 42–295–30311
3. 103
4. Texas Oil & Gas Corp
5. Schultz B #1
6. Mammoth Creek North (Cleveland)
7. Lipscomb TX
8. 350.0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Co.

1. 79–16303/00350
2. 42–295–30523
3. 103
4. Texas Oil & Gas Corp
5. Schultz C #1
6. Mammoth Creek North (Cleveland)
7. Lipscomb TX
8. 75.0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Co

1. 79–16303/00476
2. 42–203–00000
3. 108
4. The Maurice L Brown Company
5. Timmins Gas Unit #3
6. Bethany
7. Harrison TX
8. 5.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline

1. 79–16304/00608
2. 42–105–00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #502
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 12.1 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16305/00612
2. 42–105–00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #1
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 5.4 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16306/00611
2. 42–105–00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #2
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 10.6 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16307/00609
2. 42–105–00000
3. 108
4. Amarex Inc
5. J M baggett Jr #602
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 9.9 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16308/00614
2. 42–105–00000
3. 108
4. Amarex Inc
5. Friend #4–1
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 2.7 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16309/00613
2. 42–105–00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #701
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 9.8 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16310/00616
2. 42–105–00000
3. 108
4. Amarex Inc
5. Friend 1–1
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 2.6 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16311/00615
2. 42–105–00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #14–164
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 12.8 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16312/00618
2. 42–105–00000
3. 108
4. Amarex Inc
5. Friend 2–1
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 4.2 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16313/00617
2. 42–105–00000
3. 108
4. Amarex Inc
5. Friend #3–1
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 6.5 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16314/00624
2. 42–497–00000
3. 103
4. Taylor Operating Company
5. F L Partin No 1(18894)
6. Chico W (Congl 5700)
7. Wise TX
8. 150.0 million cubic feet
9. August 14, 1979
10. Cities Service Company

1. 79–16315/00619
2. 42–105–00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #13–164
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79–16316
2. 42–483–00000
3. 108
4. Sidwell Oil & Gas Inc
5. Martin A–1 33867
6. East Panhandle
7. Wheeler TX
8. 3.8 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79–16317/00637
2. 42–483–00000
3. 108
4. Sidwell Oil & Gas Inc
5. Caperton #1 33769
6. East Panhandle
7. Wheeler TX
8. 1.2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79–16318/00636
2. 42–483–00000
3. 108
4. Sidwell Oil & Gas Inc
5. Boston #1 33862
6. East Panhandle
7. Wheeler TX
8. 11.6 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79–16319/00638
2. 42–483–00000
3. 108
4. Sidwell Oil & Gas Inc
5. Lax #1 33865
6. East Panhandle
7. Wheeler TX
8. .2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79–16320/00639
2. 42–483–00000
3. 108
4. Sidwell Oil & Gas Inc
5. Reeves #1 33868
6. East Panhandle
7. Wheeler TX
8. 10.7 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79–16321/00640
2. 42–483–00000
3. 108
4. Sidwell Oil & Gas Inc
5. Leake #1 33866
6. East Panhandle
7. Wheeler TX
8. 3.9 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

U.S. Geological Survey Metairie, La.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–16370/G8–179
2. 17–715–00000–0000–0
3. 102
4. Ocean Production Company
5. OCS–G 065 No B–10A
6. South Timbalier BIK 86
7. 86
8. 950.0 million cubic feet
9. August 13, 1979
10. Trunkline Gas Company

1. 79–16371/G9–766
2. 42–711–40353–00S1–0
3. 102
4. Exxon Corporation
5. OCS–G 2740 No B–6
6. High Island
7. A–342
8. 5000.0 million cubic feet
9. August 13, 1979
10. Columbia Gas Trans Corp, Trunkline Gas Co, Natural Gas Pipeline Co

U.S. Geological Survey Casper, Wyo.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16364/CC119–9
2. 05–102–07850–0000–0
3. 108
4. Lawrence Barker Jr
5. Government #1M/34
6. South Douglas Creek
7. Rio Blanco CO
8. 10.0 million cubic feet
9. August 14, 1979
10. Northwest Pipeline Corporation

1. 79–16365/CC628–9
2. 05–103–08049–0000–0
3. 108
4. Coseka Resources (USA) Limited
5. Taiga Federal 3–L–20
6. Thunder
7. Rio Blanco CO
8. 13.5 million cubic feet
9. August 14, 1979
10. Northwest Pipeline Corporation

1. 79–16366/CC633–9
2. 05–103–08048–0000–0
3. 108
4. Coseka Resources (USA) Limited
5. Taiga Federal #1–G–20–4S–102W
6. Thunder
7. Rio Blanco CO
8. 5.1 million cubic feet
9. August 14, 1979
10. Northwest Pipeline Corporation

1. 79–16369/UC887–9
2. 43–019–30429–0000–0
3. 103
4. NP Energy Corporation
5. Federal 30–1
6. Cisco Dome Area
7. Grand County UT
8. 21.0 million cubic feet
9. August 14, 1979
10. Northwest Pipeline Corporation

1. 79–16326/W519–9
2. 49–019–20448–0000–0
3. 102
4. Cities Service Co
5. Federal AT #1
6. Table Mountain
7. Johnson WY
8. 12.0 million cubic feet
9. June 19, 1979
10. Phillips Petroleum Co

1. 79–16367/W683–9
2. 49–007–20338–0000–0
3. 102
4. Sun Oil Company (Delaware)
5. Echo Springs Federal Well 1–12
6. Echo Springs
7. Carbon WY
8. 1277.0 million cubic feet
9. August 14, 1979
10. Colorado Interstate Gas Co

1. 79-16368/W684-9
2. 49-037-20689-0000-0
3. 108
4. Santa Fe Energy Company
5. Canyon Creek 12-3
6. Canyon Creek (Wasatch)
7. Sweetwater WY
8. 2.3 million cubic feet
9. August 14, 1979
10. Colorado Interstate Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CER 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 24, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27897 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

Columbia Gas Transmission Corp., et al.; Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 27, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16628/79-1994
2. 17-097-20460
3. 107
4. Shell Oil Company
5. 17600 Tusc Ra Sua Hagger No 1
6. Big Cane
7. St Landry LA
8. 3600.0 million cubic feet
9. August 15, 1979
10. Columbia Gas Transmission Corp

1. 79-16629/79-1993
2. 17-007-20226
3. 103
4. J M Huber Corporation
5. MA-1 RB Sub Martin & Sons No 4
6. Coteau Frene
7. Assumption LA
8. 438.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp

1. 79-16630/79-1995
2. 17-057-21582
3. 103
4. Great Southern Oil & Gas Co Inc
5. SL 4534 No 1
6. Lake Raccourci
7. Lafourche Parish LA
8. 548.0 million cubic feet
9. August 15, 1979
10. Columbia Gas Development Corp

1. 79-16631/79-1938
2. 17-111-01384
3. 108
4. Eason Oil Company
5. Barr A 3 #103466
6. Monroe
7. Union LA
8. 8.6 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16632/79-1939
2. 17-111-01303
3. 108
4. Eason Oil Company
5. Beasley 1 #32131
6. Monroe
7. Union LA
8. 14.1 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16633/79-1933
2. 17-073-00136
3. 108
4. Eason Oil Company
5. Stubbs 1 #12999
6. Monroe
7. Ouachita LA
8. 3.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16634/79-1934
2. 17-111-01446
3. 108
4. Eason Oil Company
5. Allen 1 #31705
6. Monroe
7. Union LA
8. 15.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16635/79-1935
2. 17-111-01375
3. 108
4. Eason Oil Company
5. Allen 2 #32049
6. Monroe
7. Union LA
8. 8.7 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16636/79-1936
2. 17-111-01183
3. 108
4. Eason Oil Company
5. Barr 1 #23848
6. Monroe
7. Union LA
8. 2.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16637/79-1937
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Barr 2 #31882
6. Monroe
7. Union LA
8. 13.5 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16638/79-1791
2. 17-111-21535
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #718
6. Monroe Gas Field
7. Union Parish LA
8. 8.0 million cubic feet
9. August 15, 1979
10. Mid Louisiana Gas Company

1. 79-16639/79-1841
2. 17-067-20012
3. 108
4. Primos Production Co
5. Tensas Delta #52
6. Monroe Gas Field
7. Morehouse LA
8. 22.5 million cubic feet
9. August 15, 1979
10. United Gas Pipeline

1. 79-16640/79-1932
2. 17-073-00000
3. 108
4. Eason Oil Company
5. Feazel-Frierson 4 #12749
6. Monroe
7. Ouachita LA
8. 3.7 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16641/79-1974
2. 17-111-01318
3. 108
4. Eason Oil Company
5. Edwards, Joe M, et al 4 #26181
6. Monroe
7. Union LA
8. 11.7 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16642/79-1975
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 1 #23098
6. Monroe
7. Union LA
8. 5.1 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16643/79-1976
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 2 #23212
6. Monroe
7. Union LA
8. 1.2 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16644/79-1632
2. 17-073-00586
3. 108
4. Pennzoil Producing Company
5. Breard, Mrs H A, No 1
6. Monroe

7. Ouachita LA
8. 2.0 million cubic feet
9. August 15, 1979
10. United Gas Pipe Line Company

1. 79-16645/79-1951
2. 17-111-00398
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 19 #106081
6. Monroe
7. Union LA
8. 12.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16646/79-1952
2. 17-111-00377
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 20 #107066
6. Monroe
7. Union LA
8. 13.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16647/79-1953
2. 17-111-20112
3. 108
4. Eason Oil Company
5. Edwards 1-A #132853
6. Monroe
7. Union LA
8. 18.1 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16648/79-1954
2. 17-111-01330
3. 108
4. Eason Oil Company
5. Edwards 2 #23581
6. Monroe
7. Union LA
8. 9.8 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16649/79-1970
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Edwards 3 #31346
6. Monroe
7. Union LA
8. 1.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16650/79-1971
2. 17-111-01314
3. 108
4. Eason Oil Company
5. Edwards, J H, 1 #25991
6. Monroe
7. Union LA
8. 11.6 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16651/79-1972
2. 17-111-01160
3. 108
4. Eason Oil Company
5. Edwards, Joe M, et al 2 #26179
6. Monroe
7. Union LA
8. 9.1 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16652/79-1973
2. 17-111-01164
3. 108
4. Eason Oil Company
5. Edwards, Joe M, et al 3 #26180
6. Monroe
7. Union LA
8. 19.6 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16653/79-1940
2. 17-111-00448
3. 108
4. Eason Oil Company
5. Bird 1 #31706
6. Monroe
7. Union, La
8. 3.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16654/79-1941
2. 17-111-00425
3. 108
4. Eason Oil Company
5. Day 1 23213
6. Monroe
7. Union, La
8. 16.5 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16655/79-1942
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 4 #24051
6. Monroe
7. Union, La
8. 7.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16656/79-1943
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 5 #23435
6. Monroe
7. Union, La
8. 2.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16657/79-1944
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 7 #23434
6. Monroe
7. Union, La
8. 4.1 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16658/79-1945
2. 17-111-00547
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 8 #33293
6. Monroe
7. Union, La
8. 7.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16659/79-1946
2. 17-111-00464
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 9 #33395
6. Monroe
7. Union, La
8. 6.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16660/79-1947
2. 17-111-00378
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 11 #33581
6. Monroe
7. Union, La
8. 1.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16661/79-1948
2. 17-111-00329
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 13 #33679
6. Monroe
7. Union, La
8. 9.8 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16662/79-1949
2. 17-111-00328
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 14 #33680
6. Monroe
7. Union, La
8. 6.6 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16663/79-1950
2. 17-111-00369
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 18 #34533
6. Monroe
7. Union, La
8. 7.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16664/79-1998
2. 17-007-20227-0000-1
3. 103
4. Petro-Lewis Funds Inc
5. Up Cr II Ra Suxi Lussier #2-D
6. Napoleonville
7. Assumption, La
8. 350.0 million cubic feet
9. August 15, 1979
10. United Gas Pipeline Company

1. 79-16665/79-1997
2. 17-007-20227-0000-2
3. 103
4. Petro-Lewis Funds Inc
5. L Cr II R8 Su Ai Lussier #2
6. Napoleonville
7. Assumption, La
8. 350.0 million cubic feet
9. August 15, 1979
10. United Gas Pipeline Company

1. 79-16666/79-1977
2. 17-023-21203
3. 103
4. General American Oil Company of Tx
5. H5 Rasufi Harms #4
6. Johnson Bayou
7. Cameron, La
8. 27.0 million cubic feet
9. August 15, 1979
10. Transcontinental Gas Pipe Line Corp, United Gas Pipeline Co

1. 79-16667/79-2000
2. 17-075-22441
3. 103
4. Gulf Oil Corporation
5. E-1 Ra Suc Bld D #15-D
6. South Pass Blk 24
7. Plaquemines, La
8. 73.0 million cubic feet
9. August 15, 1979
10. Southern Natural Gas Co

1. 79-16668/79-1999
2. 17-007-20264
3. 103
4. Petro-Lewis Funds Inc
5. Lwr Cr II Rasuki Hebert #2
6. Napoleonville
7. Assumption Parish, La
8. 100.0 million cubic feet
9. August 15, 1979
10. United Gas Pipeline Company

1. 79-16669/79-1978
2. 17-023-21303
3. 103
4. Natomas North America Inc
5. P-4C Rb Su A Vincent Heirs #3-D
6. Cameron
7. Cameron, La
8. 700.0 million cubic feet
9. August 15, 1979
10. Williams Exploration Company, Louisiana Resources Co

1. 79-16670/79-1979
2. 17-023-21303
3. 103
4. Natomas North America Inc
5. P-5 Ra Sua Vincent Heirs #3
6. Cameron
7. Cameron, La
8. 270.0 million cubic feet
9. August 15, 1979
10. Williams Exploration Company, Louisiana Resources Co

1. 79-16671/79-1981
2. 17-003-00170
3. 108
4. Estate of H L Hunt
5. Yegua Ra Sue Poole #1 (59646)
6. Oberlin
7. Allen, La
8. 7.0 million cubic feet
9. August 15, 1979
10. Park Pipe Line Co, Transcontinental Gas Pipe Line Corp

1. 79-16672/79-1980
2. 17-003-00166
3. 108
4. Estate of H L Hunt
5. Yegua Ra Sui Bel S #3 (60655)
6. Oberlin
7. Allen, La
8. 10.0 million cubic feet
9. August 15, 1979
10. Park Pipe Line Co, Transcontinental Gas Pipe Line Corp

1. 79-16673/79-1983
2. 17-700-20153-00S2
3. 103
4. Chevron USA Inc
5. OCS-G-1439 #7
6. West Cameron Block 49
7. Offshore Cameron, La
8. 1117.0 million cubic feet
9. August 15, 1979
10. Natural Gas Pipline Co of America

1. 79-16674/79-1982
2. 17-057-21255
3. 102
4. Union Oil Company of California
5. State Lease 6324 Well No 2
6. West Timbalier Bay
7. Lafourche, La
8. 750.0 million cubic feet
9. August 15, 1979
10. Mid-Louisiana Gas Company

1. 79-16675/79-1985
2. 17-023-21335
3. 103
4. IMC Exploration Company
5. Cameron Parish Sch Bd #1 (160720)
6. Chalkley
7. Cameron, La
8. 110.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16676/79-1984
2. 17-023-21336
3. 103
4. Amoco Production Company
5. Miami Corp I R/A C No 14
6. Little Pecan Lake
7. Cameron, La
8. 1186.0 million cubic feet
9. August 15, 1979
10. Columbia Gas Transmission Corp

1. 79-16677/79-1992
2. 17-089-20353
3. 103
4. Gulf Oil Corporation
5. Bayou Couba DSCI #138
6. Bayou Couba
7. St Charles, La
8. 296.0 million cubic feet
9. August 15, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16678/79-1965
2. 17-111-00471
3. 108
4. Eason Oil Company
5. Harrell 1 #79301
6. Monroe
7. Union, La
8. 3.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16679/79-1966
2. 17-111-00503
3. 108
4. Eason Oil Company
5. Pilgreen GW 2 #79880
6. Monroe
7. Union, La
8. .8 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16680/79-1967
2. 17-111-00470
3. 108
4. Eason Oil Company
5. Russell D 1 #79303
6. Monroe
7. Union, La
8. .7 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16681/79-1968
2. 17-111-00417
3. 108
4. Eason Oil Company
5. Smith Ruth Day 1 (34457)
6. Monroe
7. Union, La
8. 8.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16682/79-1969
2. 17-111-00322
3. 108
4. Eason Oil Company
5. Springfield Bapt Church 1 #85387
6. Monroe
7. Union, La
8. 1.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16683/79-1991
2. 17-089-20385
3. 103
4. Exxon Corporation
5. P Ra Sul Sarpy Bros No 27
6. Good Hope
7. St Charles, La
8. 55.0 million cubic feet
9. August 15, 1979
10. United Gas Pipe Line Co

1. 79-16684/79-1987
2. 17-031-00349
3. 108
4. Phillips Petroleum Company
5. NSU-D-Provost No 1
6. Spider
7. Desoto, La
8. 19.5 million cubic feet
9. August 15, 1979
10. Southern Natural Gas Co

1. 79-16685/79-1988
2. 17-705-20086
3. 108
4. CNG Producing Company
5. S L 5008-5054 #2
6. Vermilion Block 16
7. Vermilion, La
8. 4.0 million cubic feet
9. August 15, 1979
10. Consolidated Gas Supply Corp

1. 79-16686/79-1989
2. 17-015-01022
3. 108
4. Texas Gas Exploration Corporation
5. USA (4425) #3AT
6. Sligo Field (old)
7. Bossier, La
8. 8.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp.

1. 79-16687/79-1990
2. 17-015-01017
3. 108
4. Texas Gas Exploration Corporation
5. USA 0236 #1
6. Sligo Field (old)
7. Bossier, La
8. 17.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16688/79-1986
2. 17-119-20200
3. 103
4. Richard B Nelson et al
5. Hill Su LL Woodard-Walker A-1
6. Ada
7. Webster, La
8. 150.0 million cubic feet
9. August 15, 1979
10. Arkansas-Louisiana Gas Company

1. 79-16746/79-2048

2. 17-067-20128
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co Inc No 98
6. Monroe
7. Morehouse, La
8. 9.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16747/79-2047
2. 17-067-20124
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 97
6. Monroe
7. Morehouse, La
8. 9.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16748/79-2046
2. 17-067-20125
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 96
6. Monroe
7. Morehouse, La
8. 13.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16749/79-2045
2. 17-067-20023
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 95
6. Monroe
7. Morehouse, La
8. 14.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16750/79-2044
2. 17-067-20006
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 89
6. Monroe
7. Morehouse, La
8. 8.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16751/79-2038
2. 17-119-20172
3. 102
4. Sandefer & Andress Inc
5. Pruitt Gray RB Sua No 1
6. Cotton Valley Field
7. Webster, La
8. 350.0 million cubic feet
9. August 16, 1979
10. Arkansas Louisiana Gas Company

1. 79-16752/79-2055
2. 17-067-20178
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 105
6. Monroe
7. Morehouse, La
8. 9.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16753/79-2054
2. 17-067-20179
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 104
6. Monroe
7. Morehouse, La
8. 1.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16754/79-2053
2. 17-067-20180
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 103
6. Monroe
7. Morehouse, La
8. 2.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16755/79-2052
2. 17-067-20181
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 102
6. Monroe
7. Morehouse, La
8. 17.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16756/79-2051
2. 17-067-20133
3. 108
4. Pennzoil Producing Company
5. Crossett TR & Dv Co Inc No 101
6. Monroe
7. Morehouse, La
8. 5.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16757/79-2050
2. 17-067-20130
3. 108
4. Pennzoil Producing Company
5. Crossett TR & Dv Co Inc No 100
6. Monroe
7. Morehouse, La
8. 7.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16758/79-2049
2. 17-067-20129
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 99
6. Monroe
7. Morehouse, La
8. 6.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16759/79-2057
2. 17-067-20176
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 107
6. Monroe
7. Morehouse, La
8. 6.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16760/79-2056
2. 17-067-20177
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 106
6. Monroe
7. Morehouse, La
8. 16.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16761/79-2068
2. 17-067-20203
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 119
6. Monroe
7. Morehouse, La
8. 11.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16762/79-2067
2. 17-067-20202
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 118
6. Monroe
7. Morehouse, La
8. 8.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16763/79-2066
2. 17-067-20230
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 117
6. Monroe
7. Morehouse, La
8. 4.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16764/79-2065
2. 17-067-20226
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 116
6. Monroe
7. Morehouse, La
8. 6.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16765/79-2064
2. 17-067-20227
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 115
6. Monroe
7. Morehouse, La
8. 16.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16766/79-2063
2. 17-067-20229
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 114
6. Monroe
7. Morehouse, La
8. 9.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16767/79-2062
2. 17-067-20228
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 113
6. Monroe
7. Morehouse, La
8. 13.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16768/79-2061
2. 17-067-20236
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 112
6. Monroe

7. Morehouse, La
8. 13.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16769/79-2060
2. 17-067-20173
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 110
6. Monroe
7. Morehouse, La
8. 9.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16770/79-2059
2. 17-067-20174
3. 108
4. Pennzoil Producing Company
5. Crossett Tbr & Dev Co No 109
6. Monroe
7. Morehouse La
8. 8.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co

1. 79-16771/79-2058
2. 17-067-20175
3. 108
4. Pennzoil Producing Company
5. Crossett Tbr & Dev Co No 108
6. Monroe
7. Morehouse La
8. 7.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Company

1. 79-16772/792022
2. 17-111-01255
3. 108
4. Eason Oil Company
5. Crow V Edwards Et al 3 #38474
6. Monroe
7. Union La
8. 3.9 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16773/79-2021
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Crow V Edwards Et al 2 #38407
6. Monroe
7. Union La
8. 5.5 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16774/79-2020
2. 17-111-01213
3. 108
4. Eason Oil Company
5. W C Beasley 3 #38137
6. Monroe
7. Union La
8. 4.0 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16775/79-2023
2. 17-111-01274
3. 108
4. Eason Oil Company
5. Crow 4 #38602
6. Monroe
7. Union La
8. 4.5 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16776/79-2024
2. 17-111-01275
3. 108
4. Eason Oil Company
5. Crow 6 #79304
6. Monroe
7. Union La
8. 4.4 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16777/79-2026
2. 17-111-00419
3. 108
4. Eason Oil Company
5. Day Clayton 1 #34927
6. Monroe
7. Union La
8. 7.5 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16778/79-2025
2. 17-111-20030
3. 108
4. Eason Oil Company
5. Crow 7 #120490
6. Monroe
7. Union La
8. 3.5 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16779/79-2027
2. 17-111-00418
3. 108
4. Eason Oil Company
5. Day Clayton E 2 #83692
6. Monroe
7. Union La
8. 3.6 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16780/79-2028
2. 17-111-00370
3. 108
4. Eason Oil Company
5. Edwards Dora 1 #40593
6. Monroe
7. Union La
8. 3.1 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16781/79-2029
2. 17-111-01297
3. 108
4. Eason Oil Company
5. Freeman M L Et al 1 #110595
6. Monroe
7. Union La
8. 4.3 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16782/79-2030
2. 17-111-01400
3. 108
4. Eason Oil Company
5. Frost Lbr Ind Inc 1 #41537
6. Monroe
7. Union La
8. 5.9 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16783/79-2031
2. 17-111-01569
3. 108
4. Eason Oil Company
5. Frost Lbr Ind Inc 2 #41536
6. Monroe
7. Union La
8. 7.2 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16784/79-2032
2. 17-111-01399
3. 108
4. Eason Oil Company
5. Frost Lbr Ind Inc 3 #99343
6. Monroe
7. Union La
8. 6.3 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16785/79-2033
2. 17-111-20031
3. 108
4. Eason Oil Company
5. Frost Lbr Ind Inc 4 #120491
6. Monroe
7. Union La
8. 6.0 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16786/79-2034
2. 17-111-00608
3. 108
4. Eason Oil Company
5. Green J A 1 #82749
6. Monroe
7. Union La
8. 1.0 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16787/79-2035
2. 17-111-00609
3. 108
4. Eason Oil Company
5. Green J L 1 #83349
6. Monroe
7. Union La
8. 2.2 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

1. 79-16788/79-2036
2. 17-111-01193
3. 108
4. Eason Oil Company
5. Haile 1 #37222
6. Monroe
7. Union La
8. 8.7 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16689
2. 30-005-20656
3. 103
4. Moranco
5. Western Reserves 32 State No 2
6. Tom-Tom (San Andres)
7. Chaves NM

8. 7.0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Company

1. 79–16690
2. 30–045–00000
3. 103
4. Great Western Drilling Company
5. J E Decker #8
6. Blanco Pictured Cliffs
7. San Juan NM
8. 365.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Company

1. 79–16691
2. 30–045–00000
3. 103
4. Great Western Drilling Company
5. J E Decker #6
6. Blanco Pictured Cliffs
7. San Juan NM
8. 365.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Company

1. 79–16692
2. 30–045–00000
3. 103
4. Great Western Drilling Company
5. J E Decker #5
6. Blanco Pictured Cliffs
7. San Juan NM
8. 365.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Company

1. 79–16693
2. 30–045–00000
3. 103
4. Great Western Drilling Company
5. J E Decker #4
6. Blanco Pictured Cliffs Ext
7. San Juan NM
8. 365.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Company

1. 79–16694
2. 30–045–23267
3. 103
4. Dugan Production Corp
5. Com #3
6. Harper Hill Fruitland PC
7. San Juan NM
8. 25.0 million cubic feet
9. August 16, 1979
10.

1. 79–16695
2. 30–025–26244
3. 103
4. Texas Pacific Oil Company Inc
5. J W Cooper No 8
6. Jalmat
7. Lea NM
8. 128.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas

1. 79–16696
2. 30–025–05477
3. 103
4. Southern Union Exploration Company
5. Lea A State #6
6. Vacuum
7. Lea NM
8. 12.0 million cubic feet
9. August 16, 1979
10. Phillips Petroleum Company

1. 79–16697
2. 30–015–22746
3. 103
4. Yates Petroleum Corporation
5. Irish Hills Je St Com #1
6. Boyd Morrow
7. Eddy NM
8. .0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Company

1. 79–16698
2. 30–025–25888
3. 103
4. Energy Reserves Group Inc
5. Amoco State #1
6. Buckeye-ABO
7. Lea NM
8. 32.0 million cubic feet
9. August 16, 1979
10. Philips Petroleum Company

1. 79–16699
2. 30–015–0000
3. 103
4. Texas Oil & Gas Corp
5. Shugart State Com #1
6. Undesignated N Shugart (Morrow)
7. Eddy NM
8. 1095.0 million cubic feet
9. August 16, 1979
10. Bixco Inc

1. 79–16700
2. 30–015–25850
3. 103
4. Yates Petroleum Corporation
5. Jackson at No 9
6. E Eagle Creek Atoka-Morrow
7. Eddy NM
8. .0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Company

1. 79–16701
2. 30–015–22789
3. 103
4. Yates Petroleum Corporation
5. Ingram Jackson BV #7
6. East Eagle Creek Atoka-Morrow
7. Eddy NM
8. .0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Co

1. 79–16702
2. 30–015–25850
3. 103
4. Yates Petroleum Corporation
5. Armstrong KS State Com #1
6. Und Kennedy Farms Morrow
7. Eddy NM
8. .0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Co

1. 79–16703
2. 30–015–22760
3. 103
4. Yates Petroleum Corporation
5. Patterson El #2
6. Eagle Creek Atoka Morrow East
7. Eddy NM
8. .0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Company

1. 79–16704
2. 30–045–00000
3. 103
4. Great Western Drilling Company
5. J E Decker #7
6. Blanco Pictured Cliffs
7. San Juan NM
8. 365.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Company

1. 79–16705
2. 30–045–23197
3. 103
4. Palmer Oil & Gas Company
5. Montoya #27–1—Mesaverde
6. Blanco—Mesaverde
7. San Juan NM
8. 36.0 million cubic feet
9. August 16, 1979
10. Southwest Gas Corporation

1. 79–16706
2. 30–015–22739
3. 103
4. HNG Oil Company
5. NM State 16 #1 LG 5175
6. Malaga West (Morrow)
7. Eddy NM
8. 767.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Co

1. 79–16707
2. 30–025–26052
3. 103
4. Warren Petroleum Div/Gulf Oil
5. Mark Owen Well No 8
6. Wantz Granite Wash
7. Lea NM
8. .0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Co

1. 79–16708
2. 30–025–26107
3. 103
4. Arco Oil and Gas Company
5. Sinclair State No 2
6. Eumont Yates 7 Rivers Queen
7. Lea NM
8. 1.5 million cubic feet
9. August 16, 1979
10.

1. 79–16709
2. 30–025–26222
3. 103
4. Phillips Petroleum Company
5. Leamex No 21
6. Leamex Paddock
7. Lea NM
8. 23.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Co

1. 79–16710
2. 30–025–26103
3. 103
4. Wood McShane & Thams
5. Lineberry No 1
6. Rhodes Pool
7. Lea NM
8. 182.5 million cubic feet
9. August 16, 1979
10.

Texas Railroad Commission, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State of Block No.

8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16711/02245
2. 42-375-30595
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8-23 RO
6. West Panhandle Red Cave
7. Potter TX
8. 31.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79-16712/02246
2. 42-375-30604
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 16-2 RO
6. West Panhandle Red Cave
7. Potter TX
8. 7.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79-16713/01168
2. 42-221-00000
3. 108
4. UV Industries Inc
5. Houston Ranch No 4
6. Houston Ranch
7. Hood TX
8. 4.7 million cubic feet
9. August 15, 1979
10. Northern Gas Products Company

1. 79-16714/01167
2. 42-221-00000
3. 108
4. UV Industries Inc
5. Houston Ranch No 4
6. Houston Ranch
7. Hood TX
8. 8.0 million cubic feet
9. August 15, 1979.
10. Northern Gas Products Company

1. 79-16715/01147
2. 42-507-30970
3. 102
4. George D. Weatherston
5. Flowers & Ward #2-24 (78322)
6. Gato Creek (San Miguel)
7. Zavala TX
8. 54.0 million cubic feet
9. August 15, 1979
10.

1. 79-16716/01075
2. 42-211-31002
3. 103
4. Pioneer Production Corporation
5. Shell-George Unit No 2-169
6. Canadian East (Douglas)
7. Hemphill TX
8. 330.0 million cubic feet
9. August 15, 1979
10. Pioneer Natural Gas Company

1. 79-16717/01147
2. 42-211-30726
3. 103
4. Pioneer Production Corporation
5. Shell-George Unit No 1-169 (#74894)
6. Canadian East (Douglas)
7. Hemphill TX
8. 140.0 million cubic feet
9. August 15, 1979
10. Pioneer Natural Gas Company

1. 79-16718/01005
2. 42-233-00000
3. 103
4. W R Edwards Jr
5. Cal Merchant A Well No 1
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 92.0 million cubic feet
9. August 15, 1979
10. Panhandle Producing Company

1. 79-16719/01004
2. 42-233-30589
3. 103
4. W R Edwards Jr
5. Cal Merchant A Well No 3-4
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 92.0 million cubic feet
9. August 15, 1979
10. Panhandle Producing Company

1. 79-16720/01003
2. 42-233-20600
3. 103
4. W R Edwards Jr
5. Cal Merchant A Well No C-3
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 92.0 million cubic feet
9. August 15, 1979
10. Panhandle Producing Company

1. 79-16721/00819
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp #A-1
6. Ozona Canyon Sand Field
7. Crockett County TX
8. 5.0 million cubic feet
9. August 15, 1979
10. Northern Natural Gas Company

1. 79-16722/00818
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp #15
6. Ozona Canyon Sand Field
7. Crockett County TX
8. 18.7 million cubic feet
9. August 15, 1979
10. Northern Natural Gas Company

1. 79-16723/00817
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp #14
6. Ozona Canyon Sand Field
7. Crockett County TX
8. 10.8 million cubic feet
9. August 15, 1979
10. Northern Natural Gas Company

1. 79-16724/00816
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp #10
6. Ozona Canyon Sand Field
7. Crockett County TX
8. 17.0 million cubic feet
9. August 15, 1979
10. Northern Natural Gas Company

1. 79-16725/01182
2. 42-389-30893
3. 107
4. Texas West Oil & Gas Corporation
5. State #1 RRC Lease #79728
6. Greasewood Siluro-Devonian
7. Reeves TX
8. 912.5 million cubic feet
9. August 15, 1979
10. El Paso Gas Transportation Co

1. 79-16726/01971
2. 42-239-00000
3. 102
4. Dixel Resources Incorporated
5. Dixel-W H Borchers #2
6. McDaniel 2800 Sand
7. Jackson TX
8. 55.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp

1. 79-16727/01970
2. 42-239-00000
3. 102
4. Dixel Resources Incorporated
5. Dixel-W H Borchers #3
6. McDaniel 3600 Sand
7. Jackson TX
8. 157.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp

1. 79-16728/01969
2. 42-239-00000
3. 102
4. Dixel Resources Incorporated
5. Dixel-W H Borchers 1-T
6. McDaniel 3300 Sand
7. Jackson TX
8. 120.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp

1. 79-16729/01968
2. 42-239-00000
3. 102
4. Dixel Resources Incorporated
5. Dixel-W H Borchers 1-C
6. McDaniel 2900 Sand
7. Jackson TX
8. 20.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp

1. 79-16730/01881
2. 42-165-31259
3. 103
4. Amerada Hess Corporation
5. Adair San Andres Unit #2507
6. Adair
7. Gaines TX
8. 3.0 million cubic feet
9. August 15, 1979
10. Pioneer Natural Gas Company

1. 79-16731/01880
2. 42-165-31258
3. 103
4. Amerada Hess Corporation
5. Adair San Andres Unit #1805
6. Adair
7. Gaines TX
8. 9.0 million cubic feet
9. August 15, 1979
10. Pioneer Natural Gas Company

1. 79-16732/01879
2. 42-165-31257
3. 103
4. Amerada Hess Corporation
5. Adair San Andres Unit #1707
6. Adair
7. Gaines TX
8. 9.0 million cubic feet
9. August 15, 1979
10. Pioneer Natural Gas Company

1. 79-16733/01849

2. 42-227-31187
3. 103
4. Sun Oil Company (Delaware)
5. Dora Roberts B D & E #4100
6. Howard Glasscock
7. Howard TX
8. 1.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16734/01768
2. 42-123-30876
3. 102
4. A Nelson McCarter Inc
5. Ogla Nagle (78978)
6. Arneckeville Yegua 5260
7. DeWitt TX
8. 146.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp

1. 79-16735/01575
2. 42-483-00000
3. 108
4. Sidwell Oil and Gas Inc
5. Morgan #1 26437
6. East Panhandle
7. Wheeler TX
8. 4.7 million cubic feet
9. August 15, 1979
10. Warren Petroleum Co

1. 79-16736/01334
2. 42-495-00000
3. 108
4. Mobil Oil Corporation
5. J B Walton No 209
6. Kermit (Yates)
7. Winkler TX
8. 13.5 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company

1. 79-16737/01332
2. 42-371-00000
3. 108
4. Mobil Oil Corporation
5. State-Vollmar No 1
6. Abell (Silurian/Montoya)
7. Pecos TX
8. 3.2 million cubic feet
9. August 15, 1979
10. PGP Gas Products Inc

1. 79-16738/01331
2. 42-475-00000
3. 108
4. Mobil Oil Corporation
5. George Sealy Sec 43 No 5
6. Magnolia Sealy South (Yates Lower)
7. Ward TX
8. 9.9 million cubic feet
9. August 15, 1979
10. Cabot Corporation

1. 79-16739/01330
2. 42-389-00000
3. 108
4. Mobil Oil Corporation
5. Wayne Moore No 12
6. Waha West (Ellenburger)
7. Reeves TX
8. 15.1 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company

1. 79-16740/01329
2. 42-165-00000
3. 108
4. Mobil Oil Corporation
5. H & J Section 195 No 17
6. Seminole (Yates)
7. Gaines TX
8. 10.8 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79-16741/01296
2. 42-135-32980
3. 103
4. Sun Oil Company (Delaware)
5. Paul Moss Unit No 184
6. Cowden South
7. Ector TX
8. 2.0 million cubic feet
9. August 15, 1979
10. Odessa Natural Corporation

1. 79-16742/01291
2. 42-135-32984
3. 103
4. Sun Oil Company (Delaware)
5. Paul Moss Unit No 177
6. Cowden South
7. Ector TX
8. 2.0 million cubic feet
9. August 15, 1979
10. Odessa Natural Corporation

1. 79-16743/01283
2. 42-135-32982
3. 103
4. Sun Oil Company (Delaware)
5. Paul Moss Unit No 171
6. Cowden South
7. Ector TX
8. 8.0 million cubic feet
9. August 15, 1979
10. Odessa Natural Corporation

1. 79-16744/02247
2. 42-375-30347
3. 103
4. Gas Producing Enterprises
5. Bivins 17-7 RO
6. West Panhandle Red Cave
7. Potter TX
8. 2.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79-16745/02248
2. 42-375-30353
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 17-8 RO
6. West Panhandle Red Cave
7. Potter TX
8. 6.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 24, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27898 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CS71-912]

Cusack Interests, c/o John Patrick Cusack, Jr. (J. P. Cusack); Applications for "Small Producer" Certificates [1]

August 30, 1979.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the

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

certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission in its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,

Secretary.

Docket Nos. CS71-912, et al.

Docket No.	Date Filed	Applicant
CS71-912	[1]6/18/79	Cusack Interests, c/o John Patrick Cusack, Jr. (J. P. Cusack) 3815 McCart Street Fort Worth, Texas 76110
CS79-529	8/10/79	Wilham Investment, Inc. 1135 East Harvester Pampa, Texas 79065
CS79-530	8/23/79	Roxane Kamenstein, *et al.* P.O. Box 663 Oklahoma City, Okla. 73101

[1] J. P. Cusack deceased 2-10-73 and small producer certificate CS71-912 now in the name of Cusack Interests, c/o John Patrick Cusack, Jr.

[FR Doc. 79-27902 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-81]

J. P. Owen & Co., Inc.; Petition for Declaratory Order

Issued: August 28, 1979.

Take notice that on July 31, 1979, J. P. Owen and Co., Inc. (Petitioner), P.O. Box 51144, Oil Center Station, Lafayette, Louisiana 70505, filed a petition for a declaratory order pursuant to section 1.7(c) of the Commission's Rules of Practice and Procedure. Petitioner requests that the Commission issue a declaratory order stating which maximum lawful price a particular contract is eligible for under the Natural Gas Policy Act of 1978 (NGPA).

Petitioner states that it is an independent small producer who, on December 15, 1976, succeeded as seller to an existing emergency gas purchase contract (No. 06456) with Transcontinental Gas Pipe Line Corporation (Buyer). This contract expired on August 8, 1979. Petitioner states that it intends to enter into another contract with Buyer for this gas and it seeks to establish the applicable maximum lawful price under the NGPA. Certain details of the contract at issue are set forth in Petitioner's application, a copy of which is available in the Commission's public files.

Petitioner states that since the contract expired on August 8, 1979, time is of the essence in resolving this issue.

Accordingly, it appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 4, 1979, file a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27899 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-343]

Western Gas Interstate Co.; Application

August 28, 1979.

Take notice that on June 6, 1979, Western Gas Interstate Company (Western), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP79-343 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of gas transmission facilities and the sale of natural gas transported by such facilities during the period, June 1, 1979, through May 31, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Western seeks authorization to transport gas purchased from producers to the interstate pipeline systems of El Paso Natural Gas Company (El Paso) and others and either cause all of such volumes to be transported by other interstate pipelines and then sell the volumes after redelivery to the gas distribution divisions of Southern Union Company or sell all or a portion of such volumes to the transporting pipelines to the extent such volumes are, on any given day, excess to the requirements of Southern Union Company. Western would purchase new supplies of natural gas from various producers, including Southern Union Exploration Company (SX), usually at the well head, under conventional gas sale and purchase agreements. Western would then transport the gas as necessary to the interstate pipeline facilities of El Paso and others. It is further stated that at the points of interconnection, Western would either deliver the gas to the transporting pipeline for further transportation for the account of Western and delivery into the facilities of Southern Union or sell all or a portion of the available volumes to the transporting pipeline as excess gas.

Western states it would sell the gas involved in the supplemental supply projects to Southern Union under the terms of its proposed FERC Rate Schedule No. X-2, Gas Sales and Purchase Agreement, dated as of January 20, 1978. It is indicated that this contract has already been filed with the Commission in support of Western's certificate application in the Barker Dome Storage Project.

Western indicates that the rate for such sales is determined according to a cost-of-service formula contained in the contract. Western would recover through its cost-of-service tariff only the cost of the supplemental supplies made available through this project and the other costs directly associated with making such supplies available. Additionally, states Western, the sales under this formula are made at a single rate, rather than multiple rates based on delivery zones, in order to simplify and harmonize the supplemental supply costs which are being flowed-through to all of Southern Union's customers.

Since Southern Union may not need all of the supplemental supplies which would be available, Western proposes to keep the flexibility to sell all or a portion of the gas to the transporting pipelines as excess gas. Western and El Paso have entered into an excess gas sales contract for this purpose, dated January 31, 1979, which Western is filing as its proposed Rate Schedule No. X-3.

Western is seeking authority to construct facilities necessary to attach gas supplies in the counties of San Juan, Rio Arriba, Chaves, McKinley, Sandoval, Lea and Eddy, New Mexico. Western would seek additional authorization should it secure gas supplies in other areas. It is indicated that Western seeks authority to sell up to 10,000 Mcf per day of natural gas under its proposed Rate Schedule X-2 and its various excess gas agreements. Western also proposes to make additional sales of excess gas to intermediate transporting pipelines. Such sales would be made to pipelines which are certificated to transport gas for Western as part of this supplemental supply project. Western states that

authorization would be effective, with respect to each sale, upon the filing by Western of the contract for the sale as a special rate schedule, without any further certificate filing being required.

The first construction planned under Western's proposal involves the purchase of the production from two wells located in San Juan County, New Mexico. These facilities are approximately one mile of 2-inch pipeline, with appurtenances, commencing at the wellhead of each of the two wells and terminating at a point of interconnection with the El Paso line in San Juan County, New Mexico. Western estimates the cost of the facilities to be $26,424.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27900 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Special Counsel for Compliance

Exxon Co., U.S.A., Case No. 630R00189; Action Taken on Consent Order

Pursuant to 10 CFR 205.199J, the Office of Special Counsel for Compliance (OSC) of the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until DOE publishes notice of its execution and solicits and considers public comments with respect to its terms. On May 7, 1979, DOE published Notice of a Consent Order which was executed between Exxon Company, U.S.A. and DOE (44 FR 26790, May 7, 1979). With that Notice and in accordance with 10 CFR 205.199J(c) DOE invited interested persons to comment on the Consent Order.

No comments were received with respect to the Consent Order. DOE has concluded that the Consent Order as executed between DOE and Exxon is an appropriate resolution of the Compliance proceedings described in the Notice published on May 7, 1979, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, upon publication of this Notice in the Federal Register (September 7, 1979).

Issued in Washington, D.C., on the 20th day of August, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-27989 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1314-2]

ESK Corp., Putnam County, Ill.; Final Determination

In the matter of the applicability of Title I, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to ESK Corporation, Putnam County, Illinois.

On June 30, 1978, ESK Corporation submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a silicon carbide production plant. Additional information was submitted by the Company on August 15 and 22, 1978. The application was submitted pursuant to the regulations for PSD.

On September 8, 1978, ESK Corporation was notified that its application was complete and preliminary approval was granted.

On September 22, 1978, U.S. EPA published notice of its decision to grant a preliminary approval to ESK Corporation. No comments or requests for a public hearing were received.

After review and analysis of all materials submitted by ESK Corporation, the Company was notified on December 7, 1978, that U.S. EPA had determined that the proposed new construction in Putnam County, Illinois, would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve ESK Corporation of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State, and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed 60 days from the date of this notice.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2090.

John McGuire,

Regional Administrator, Region V.

Aug. 27, 1979

U.S. Environmental Protection Agency

Region V

In the matter of ESK Corporation. Proceeding pursuant to the Clean Air Act, as amended (EPA-5-A-79-4).

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The ESK Corporation (ESK) proposes to construct a silicon carbide production plant

in Hennepin Township, Putnam County, Illinois.

2. Putnam County is a Class II area as determined pursuant to Section 162 of the Act and has been designated as a nonattainment area for particulate matter by the State of Illinois pursuant to Section 107 of the Act.

3. The proposed silicon carbide plant is subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act. The plant is not subject to the Interpretive Ruling (41 FR 55524–30) because the allowable emission rate of particulate matter from the proposed plant is less than 100 tons annually.

4. The sulfur dioxide emissions from the silicon carbide plant will be temporary. ESK will pipe the gas containing sulfur dioxide produced in the silicon carbide process to an Illinois Power generating station not later than two years after start-up of the silicon carbide plant.

5. ESK submitted a PSD application on June 30, 1978. On August 15 and 22, 1978, ESK submitted additional information to remedy deficiencies in their application. The U.S. Environmental Protection Agency (U.S. EPA) notified ESK on September 8, 1978, that their application was complete and that preliminary approval was granted.

6. On September 29, 1978, U.S. EPA published notice in the *Hennepin News Tribune* seeking written comments from the public on ESK's application and U.S. EPA's review and preliminary approval. There were no public comments and no requests for a hearing.

7. After review of all the materials submitted by ESK, U.S. EPA has determined that emissions from the operation of the silicon carbide plant will be reduced by application of the best available control technology and that emissions from the plant will not adversely impact air quality.

Conditions

8. There shall be no visible emissions of particulate matter from any building or operation at the ESK plant.

9. Stack emissions of particulate matter shall not exceed 0.015 grains per dry standard cubic feet.

10. Products of the silicon carbide operation shall not be moved unless it is in covered or enclosed trucks or railroad cars.

11. The height of the flare stack shall not be less than 15 meters.

12. ESK shall install and operate an ambient air monitoring system designed to measure carbon monoxide ground level concentrations at its plant boundaries. The instrumentation and operating procedures for this system shall be those agreed to by letter of November 17, 1978 from U.S. EPA to ESK.

13. ESK shall inform U.S. EPA in writing of the initial start-up date of the silicon carbide plant, 30 days prior to start-up.

14. Prior to two years after initial start-up, ESK shall cease all sulfur emissions to the ambient air from its silicon carbide plant. ESK shall notify U.S. EPA of this cessation, in writing, five days after it occurs.

Conditions 8 through 12 represent the application of the best available control technology as required by 40 CFR 52.21. Conditions 13 and 14 are necessary to insure that emissions of sulfur dioxide from the silicon carbide plant are of a temporary nature, consistent with the definition at 41 FR 26394. ESK was exempted from a sulfur dioxide air quality impact study based upon the representation that sulfur dioxide emissions were of a temporary nature.

15. ESK must construct and operate the silicon carbide plant in accordance with the descriptions presented in their application for approval to construct. Any change in the plant might alter U.S. EPA's conclusions and therefore, any changes must receive the prior written authorization of U.S. EPA.

Approval

16. Approval to construct the silicon carbide plant is hereby granted to the ESK Corporation subject to the conditions expressed herein and consistent with the materials and data included in the application filed by the Corporation. Any departure from the conditions of this approval or the terms expressed in the application must receive the prior written authorization of U.S. EPA.

17. This approval to construct does not relieve ESK of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

18. A copy of this approval has been forwarded to the Putnam County Library, Hennepin, Illinois, for public inspection.

Dated: December 7, 1978.

John McGuire,

Regional Administrator, Region IV.

[FR Doc. 79–27992 Filed 9–6–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1306–4]

New Source Performance Standards for Sulfuric Acid Plants; Final EPA Remand Response

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Remand Response.

SUMMARY: In *Essex Chemical Corp., et al.* v. *Ruckelshaus*, 486 F.2d 427 (September 10, 1973) the U.S. Court of Appeals for the District of Columbia Circuit remanded the record to EPA for further consideration of certain issues. EPA published a draft response for public comment on August 29, 1975 (40 FR 39927). In its draft response, EPA tentatively concluded that the new source performance standards for sulfuric acid plants should not be revised. This action addresses the comments received on the draft remand response, and announces EPA's final conclusion that the new source performance standard for sulfuric acid plants should not be revised.

ADDRESSES: The single comment letter received on the draft remand response is available for public inspection and copying at the EPA Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jim Herlihy, Division of Stationary Source Enforcement (EN–341), Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460; telephone 202–755–8137.

SUPPLEMENTARY INFORMATION: A total of eleven comments on EPA's draft remand response were recevied in a letter from an acid manufacturer. EPA has made a thorough evaluation of the comments and has determined that no additional revisions should be made to the standard or the draft remand response.

Because no revision is necessary, a copy of the draft respnse and this notice will be submitted to the U.S. Court of Appeals for the District of Columbia Circuit as EPA's final action in this remand proceeding.

Summaries of the comments and EPA responses are presented below. Although responses are given to all the comments, it should be noted that some comments concern issues that are beyond the scope of the remand. As EPA noted in its draft response (40 FR at 39927), the case was remanded for consideration of the following specific issues:

(a) The reasonableness of the opacity standards.

(b) The need for variant provisions in the standards for periods of start-up, shutdown, or malfunctions.

(c) The adverse environmental effects of waste streams resulting from the control of recycle acid plants.

Comments 1, 2, 3, 4, 5 and part of 11, therefore, concern issues outside the scope of the remand.

Comment No. 1: In footnote a of the draft remand response, EPA cites the du Pont Tysul® (peroxide) sulfur dioxide abatement process—now in use only at du Pont's East Chicago Plant—as a technology capable of meeting the four pounds per ton sulfur dioxide standard for recycle acid plants. The Tysul® process, while a technical success, has not proven economical for any other company because of the high day-to-day operating costs. Because of the costs, no other company has found the Tysul® abatement system to be suitable even for a virgin acid plant much less a recycle plant where much more sulfur dioxide would need to be abated. The purge stream from this process is a weak sulfuric acid which can be recycled to process providing the water balance is not critical. In recycle plants burning refinery alkylation acid, water generated in the process could preclude recycle and the plant would have to contend with alternate disposal of a weak acid

significantly more dilute that the usual commercial grades. If the acid were precipitated with lime, a solid waste amounting to as much as 105 pounds of calcium sulfate per ton of acid produced would have to be landfilled.

Response No. 1: The commenter indicates only that under current economic conditions, the peroxide system is not competitive with other sulfur dioxide control systems applicable to sulfuric acid plants. Nothing has been provided to show that the system is prohibitively expensive or that it will not be a viable scheme for those plants with conditions comparable to the du Pont plant in which it is now functioning.

As cited in the draft response, other processes are available to remove sulfur dioxide and allow compliance with the standards. 40 FR at 39927. For the cases where weak acid from the du Pont process cannot be blended into the product, it appears that most operators would choose another process.

Comment No. 2: It should be obvious to EPA that (1) the 0.15 pound per ton limit cannot be met based on vapor loading alone, (2) if the vapor pressure data are questionable, their arguments relative to footnote j are erroneous. For all final absorber conditions, the tail gas will contain vapors (SO_3 and H_2SO_4) at concentrations exceeding 1.0 milligrams per standard cubic foot. Since the 0.15 pound per ton limit equates to 0.8 milligram per standard cubic foot, it is clearly shown that the 0.15 pound limit cannot be met if the measurement of "acid mist" includes the true amount of sulfur trioxide and sulfuric acid vapor.

Since Table 1 data using EPA Method 8 do not account for all the vapors present (as indicated by footnote j), we can only conclude that EPA Method 8 does not quantitatively determine vapors in tail gas streams.

Response No. 2: The commentor has calculated the amount of acid vapor theoretically present in exhaust gases and presented certain other information to show that if a minor portion of the acid vapor were collected in a Method 8 test, the emission limit would be exceeded. But the commentor also states his conclusion that Method 8 does not quantitatively determine vapors in tail gas streams. This is an important point, because the standard limits the amount of acid mist as measured by Method 8, not the theoretical amount that may be present. Moreover, emission tests at plants that employ the most effective control technology show that the theoretical amount of acid vapor is not collected, and that the amount of acid vapor plus sulfur trioxide and liquid acid collected by Method 8 does not exceed the emission limit. (Refer to Table 1 of the draft remand response.) The Administrator has determined, therefore, that even if the comment is correct, it is not relevant.

Comment No. 3: Table 1 of EPA's draft remand response clearly shows that the 0.15 pound per ton limit for acid mist is not acceptable because:

(a) The analysis of variances indicates as much as 400 percent variation in results at the same site. Although the average of all data in Table 1 is 0.10 pound per ton, the standard deviation is 0.07. Therefore, the average plus three times the standard deviation is 0.31 pound per ton. Clearly, 0.15 is not statistically sound based on Table 1 data.

(b) If only the six plants exhibiting zero opacity are considered, the average plus three times the standard deviation becomes 0.24 pound per ton.

Response No. 3: The Administrator disagrees for the following reasons:

(a) The validity of the 0.15 pound per ton acid mist standard is an issue that the Court has specifically resolved in favor of EPA. In its review of the acid mist standard, the Court reached the following conclusion:

"Our review of the record leads us to conclude that ample evidence exists, in terms of both technical literature and results of EPA conducted tests, to satisfy us of the reasoned nature of the EPA's acid mist standard." 486 F.2d at 439.

(b) The commentor's statistical analysis overlooks the fact that the plants on which the standard is based show results well below the standard. These plants are the first three plants listed in Table 1 of the draft remand response, which also shows the range of the test results. The averages for the three plants are 0.04, 0.10, and 0.08 pound per ton. From these results, it can be clearly seen that the emission standard is achievable.

(c) The anlysis used by the commentor indicates the confidence intervals associated with the test results. For example, for the interval represented by the average of the emission test results plus and minus one standard deviation, there would be about sixteen chances in a hundred that the true emission rate is greater than any number within the interval. If the interval were increased to plus and minus two standard deviations, the chances would decrease to about two in a hundred, and so on. No matter how large the interval became, however, the probability would never decrease to zero. This means that no matter how high the emission limitations were set, there would always be a finite probability that the true emission rate would exceed the emission limitation. It is not significant, therefore, that the commentor has found an interval for which there is a small probability that the true average is greater than EPA's emission limitation. For this type of analysis to be persuasive, the commentor would have to show why the calculated probability is unacceptable. No such showing has been made or attempted. In the Administrator's opinion, therefore, the commentor's analysis does not support his conclusion.

Comment No. 4: The industry defines acid mist as liquid particulate sulfuric acid because sulfur trioxide and sulfuric acid vapor, being gases, cannot be removed by commercial demisting equipment. The modified Monsanto Method represents the industry standard as it measures particulate mist (no vapors) which is related more directly to mist abatement equipment design. The modified Monsanto Method should be specified as the analytical method for source performance testing and compliance.

Response No. 4: EPA defines acid mist as the material measured by EPA Method 8. 40 CFR 60.81(b). This material comprises sulfur trioxide gas and some of the acid vapor as well as acid liquid. Acid vapor will condense to liquid at atmospheric conditions and sulfur trioxide combines with moisture in the air to form liquid acid. Since both substances form liquid acid at atmospheric conditions, both are properly included in a definition of acid mist for purposes of air pollution control. This will help ensure that all emissions that produce acid mist in the atmosphere will be controlled. It is not critical that gases and vapors may pass through the mist removal equipment because they can be controlled by proper design and operation of the absorber and oleum tower. The Administrator has determined, therefore, that the definition of acid mist should not be changed.

Method 8 and the modified Monsanto Method both collect acid liquid. The principal difference between them, is that Method 8 also collects sulfur trioxide and some of the acid vapor. Since both additional components are properly included in acid mist, Method 8 is a superior test method. In fact, the modified Monsanto Method is the one that is subject to serious errors: if plant emissions contain significant amounts of sulfur trioxide because of poor plant design or operation, such emissions would be largely undetected by the modified Monsanto Method.

The Administrator has therefore concluded that EPA Method 8 should be retained as the reference test method, and that the modified Monsanto Method is not an acceptable equivalent. It should be noted that the use of Method 8 was specifically upheld by the Court. 486 F.2d at 440.

Comment No. 5: Du Pont concludes that the data used by EPA are statistically unsound and based on an analytical method subject to serious errors. Therefore, industry cannot be assured that they can meet the 0.15 pound per ton mass emission limitation even after application of best available technology. Du Pont recommends that the new source performance standards provide for a variance when best available technology (in the case of sulfuric acid—high efficiency mist eliminators) has been installed and yet mass limits are not achieved in operation.

Response No. 5: The commentor's conclusion is based on his belief that the EPA test method is subject to serious errors, and that the data used by EPA is statistically unsound. These two points are discussed in Responses 4 and 3 respectively. The Administrator disagrees with the commentor on both points, and therefore concludes that the commentor has not shown that variance provisions should be adopted.

As examples where variances would be appropriate, the commentor cites two recycle plants that have installed high efficiency mist eliminators. The Administrator does not believe that such installations, by themselves, are sufficient. For optimum mist control at a recycle plant, effective primary and secondary mist collectors must be installed. The primary collector removes mist formed prior to the catalyst bed while the secondary collector, located downstream of the acid tower, removes mist from stack gases just prior to emission to the atmosphere. Installation of high efficiency secondary mist eliminators alone does not ensure attainment of the standard, since even

these units can become overloaded by abnormally high acid mist inlet concentrations. The overloading effect may be aggravated by the smaller mist particles typically associated with recycle acid plants which use variable feedstocks. Abnormally high acid mist inlet concentrations can stem from inadequate primary acid mist removal during the cooling and cleaning of gases from the spent acid decomposition furnace. The two plants cited by the commentor do not use electrostatic precipitators, which are generally considered the most effective primary mist collectors. The Allied Chemical Company's recycle acid plant in Elizabeth, New Jersey, reported in Table 1, is similar in design to the two plants cited by the commentor except that it is equippped with electrostatic precipitators for primary mist control; emissions are well within the acid mist standard. The recycle acid plant operated by Olin Chemical Company in Paulsboro, New Jersey, reported in Table 1, is also equipped with electrostatic precipitators for primary mist collection. This plant was tested by EPA in 1971 and it too met the standard.

The design, operation, and maintenance of the oleum tower and absorption tower ahead of the final mist eliminator also influence emissions of acid mist as does the physical integrity of the final eliminator and supporting ductwork. Even a small leak can allow by-passing of the collector in sufficient magnitude to exceed the standard. Such a situation was noted as suspect during inspection of the Essex Chemical Company's Newark, New Jersey sulfuric acid plant (Table 1 of EPA's draft response).

In summary, it appears that organic sulfide and nitrogen feedstocks can increase acid mist and opacity emissions from recycle acid plants. But several recycle plants have been found to achieve the standard, and no evidence has been submitted which shows that emissions from a properly designed and operated recycle plant will exceed the standard. In the Administrator's opinion, therefore, there is no need for a variance provision such as the one suggested by the commentor.

Comment No. 6: The opacity standard should be left open pending action by the U.S. Supreme Court in *Portland Cement Association* v. *Ruckleshaus, 486 F. 2d 375 (D.C. Circuit 1973).*

Response No. 6: This point is moot since the Supreme Court denied certiorari in this case on May 8, 1974. 417 U.S. 921.

Comment No. 7: Opacity should be used at most as an indicator of noncompliance with the mass emission limit. Table 3 of the draft remand response shows that no correlation exists between mass emission and opacity and is consistent with du Pont experience. Opacity is an unnecessary and misleading standard when used to measure and regulate emissions from sulfuric acid plants without regard to feedstocks being consumed, the technology of mist formation, mist particle size distribution, and the major dependence of acid mist visibility capacity on particle size rather than acid mist concentration.

Response No. 7: Opacity is governed by several factors. Acid mist concentration is a major determinant, but other parameters, such as particle size distribution and stack diameter, are also important. As a result, one should not expect opacity to be correlated with acid mist concentrations alone. But this does not mean that the opacity standard should be withdrawn. Opacity is a strong indicator of acid mist emissions and the opacity standard provides an effective complement to the emission limitations for ensuring that sources will be well controlled. Without an opacity standard, it would be difficult to ensure that a plant operates continuously with good control of acid mist emissions, except for the brief periods during which Method 8 performance tests are run.

As discussed in the draft remand reponse, the Administrator recognizes that certain size distributions may result in higher than usual opacities. 40 FR at 39931. To accommodate such situations, EPA promulgated 40 CFR 60.11(e). As pointed out, the purpose of that regulation was to provide a generally applicable mechanism for any owner/operator to petition the Administrator to obtain a higher opacity standard for any facility that demonstrates compliance with the mass emission standard concurrent with failure to attain the promulgated opacity standard. 40 FR at 39929. (As discussed in Response No. 3, the Court has specifically upheld the 0.15 pound per ton mass emission standard. 486 F. 2d at 439.)

For the reasons discussed above, the Administrator has determined that the opacity standard should be retained.

Comment No. 8: In Table 1 of the draft remand response, the Essex opacity was greater than 10 percent. EPA ignored this opacity (selecting data) by rationalizing the greater than 10 percent as "probable" by [sic] passing of tail gas around the mist eliminator. Opacity measurements in Table 1 of EPA's draft remand response could not have been made by modified Method 9 for all locations, since the first three sites were sampled in 1971.

Response No. 8: Whether or not the visible emissions at the Essex chemical plant resulted from a malfunction is not critical, because readings at this plant are not relied on to support the standard. Numerous readings of zero opacity were made at other plants. It should be pointed out that the opacity for the Essex Chemical plant is given incorrectly in Table 1, due to a typographical error. The correct value is *less* than 10 percent opacity, as shown in Reference 19 of the draft remand response.

Although the Table 1 data were taken before Method 9 was modified, and therefore may not have been obtained by modified Method 9 procedures, the Administrator believes that the opacity standard is achievable. the record supports the Administrator's conclusion for the following reasons:

(a) Six of the plants in Table 1 have average opacity readings of zero. The averages for the first three of these plants result from numerous determinations (three, nine, and four, respectively)—all of which are zero. [Reference 19 of the draft remand response at Table 1.] At least one of those determinations (namely, the one made July 27, 1971 at the Allied Chemical plant is itself an average of multiple readings of zero percent opacity. [Reference 18 of the draft remand response at page 3.]

(b) The standard allows for a margin of error in the above readings, since opacities of less than 10 percent are in compliance.

A summary of the Administrator's consideration of the achievability of the opacity standard is contained in the draft remand response. 40 FR at 39930–39931.

Comment No. 9: EPA is urging the burning of more wastes and many plants may in the future find it necessary to dispose of many types of sulfur and nitrogen bearing wastes and will be unable to achieve the 10 percent opacity standard.

Response No. 9: The Administrator considered this issue in the draft remand response. 40 FR at 39931. He stated that inorganic sulfides and high nitrogen bearing wastes will not be present in the feedstocks of most plants and that such situations are clearly within the intent of 40 CFR 60.11(e). A plant such as the one described by the commentor, therefore, is a specific example of the general case discussed in Response No. 7.

Even if the Administrator's projection is incorrect, and a large number of plants processing inorganic sulfides and high nitrogen-bearing wastes are built, each plant will be able to rely on 40 CFR 60.11(e).

Comment No. 10: 40 CFR 60.11(e) allows the EPA Administrator to establish a different opacity limit when mass emissions are met. However, many state and city regulations do not have such a provision and will prosecute opacity violations even when mass emission limits are being met.

Response No. 10: State and local agencies are free to enact regulations or to adopt policies more stringent than the new source performance standards promulgated by EPA. But they are free to do this whether or not EPA promulgates less stringent standards. Even if other agencies were influenced by EPA's standards, such a consideration would not be material to the setting of EPA's new source performance standards, which are governed by Section 111 of the Clean Air Act.

Comment No. 11: EPA has not given adequate consideration to the information contained in a letter from C.C. Quarles to Mr. D.R. Goodwin, dated June 11, 1975 (Reference 23 in the draft remand response).

Response No. 11: The subject letter contains a report originally submitted to EPA regarding the agency's guidelines for emission standards for existing sulfuric acid plants. The sections of the report that pertain to new source performance standards and the issues in this remand are the Introduction (Section I), the Summary and Conclusions (Section II), Aspects of Vapor Emission Problem and Method of Analysis (Section III), and Opacity (Section V). The Administrator has considered all the information in those sections. The main points of the sections are summarized in the subject letter, and the Administrator's consideration of each point is indicated below.

The first major point in the subject letter is that the mass emission limit of 0.15 pound per ton is inappropriate for four basic reasons.

(a) The inclusion of vapors as mist is inappropriate and inadequately supported.

—The Administrator's consideration of this point is summarized in Responses 2 and 4 above.

(b) The 0.15 pound per ton limit is exceeded by two of the five Du Pont plants equipped with high efficiency mist eliminators.

—The Administrator's consideration of this point is summarized in Response No. 5 above.

(c) The 0.15 pound per ton standard is not statistically sound, based upon EPA sampling of only three acid plants in the industry. Analysis of the variance of these limited tests confirms this point.

—It is true that the EPA tests were performed for a limited number of plants and process conditions. Plants operating with different kinds of feed, or producing a higher ratio of oleum to acid, or operating at a higher capacity may, as the commentor indicates, have greater emissions than the plants tested by EPA. But it is also true that the emission controls, which were designed for the requirements of the particular plants on which they are installed, can be made more efficient. This can be done, for example, by increasing the number of tubes in the vertical tube mist eliminator or by packing them more tightly. In the Administrator's opinion such design improvements can reasonably and easily be made, with the result that all new acid plants can be controlled well enough to meet the new source performance standard. This is consistent with the Court's finding that:

"It is the [emission control] system which must be adequately demonstrated and the standard which must be achievable. This does not require that a sulfuric acid plant be currently in operation which can at all times and under all circumstances meet the standards . . . An achievable standard is one which is within the realm of the adequately demonstrated system's efficiency and which, while not at a level that is purely theoretical or experimental, need not necessarily be routinely achieved within the industry prior to its adoption." 486 F. 2d at 433.

—The commentor's analysis of the variance of the emission test results (pages 8 and 9 of the report contained in the subject letter) is similar to the analysis in Comment No. 3, but is based on data for only the first three plants in Table 1 of EPA's draft remand response. The Administrator's consideration of this type of analysis is summarized in Response No. 3.

(d) The EPA analytical method (EPA Method 8 for acid mist) is subject to serious questions of accuracy and reproducibility.

—The subject letter makes an argument (at pages 11–15 of the report) in addition to those in Comments 2 and 4 above. Specifically, the commentor points out certain inconsistencies in comparative tests involving Method 8 and the modified Monsanto Method, and concludes that until the discrepancies are resolved the modified Monsanto Method should be specified as the analytical method for source performance testing and compliance. In the Administrator's view, the fact that Method 8 and the modified Monsanto method sometimes produce inconsistent results does not support the conclusion that the modified Monsanto method should be preferred over Method 8. The commentor has not shown that the inconsistencies are attributable to errors in Method 8 rather than the modified Monsanto method; on the basis of the inconsistencies, therefore, there is no reason to prefer the modified Monsanto method. Moreover, as discussed above in Response No. 4, and modified Monsanto method is inherently less accurate than Method 8, because the modified Monsanto method does not measure sulfur trioxide or any portion of the acid vapor—substances that are properly included in the definition of acid mist. Accordingly, the Administrator believes that Method 8 should be retained as the reference test method. Moreover, as noted above, the use of Method 8 was specifically upheld by the Court. 486 F.2d at 440.

The second major point in the subject letter is that opacity should not be used as a regulatory limit but rather, at most, as an indicator of noncompliance, because opacity is determined primarily by factors other than acid mist concentration. The Administrator's consideration of these arguments is summarized above in Responses No. 7 and 9.

Douglas M. Costle,

Administrator.

August 31, 1979.

[FR Doc. 79-27990 Filed 9-6-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1314-6]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of August 27 to August 31, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from September 7, and will end on October 22, 1979. The 30-day wait period for final EIS's as calculated from September 7, 1979 will end on October 8, 1979.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 245–3006.

Summary of Notice

On July 30, 1979, the CEQ Regulations became effective. Pursuant to Section 1506.10(a), the 30 day wait period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of August 27 to August 31, 1979, the 30 day wait period will be calculated from September 7 1979. The wait period will end on October 8, 1979.

Appendix I sets forth a list of EIS's filed with EPA during the week of August 13 to August 17, 1979, the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II included the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: September 5, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix I—EIS's Filed With EPA During the Week of August 27 to 31, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965.

Forest Service

Draft

Chatham and Stikane Areas Timber Sale, Tongass National Forest, Alaska, August 31: Proposed is a timber sale operating plan for the Chatham and Stikane areas of the Tongass National Forest on the Islands of Kuiu, Baranof and Chichagof. The recommended action proposes harvest of 525 MMBM of timber from eight management areas for which a total of 369 miles of road must be constructed. Eight alternatives are considered. (EIS order No. 90932.)

North Siskiyou Planning Unit, Siskiyou County, Calif.; Jackson, Josephine Counties, Oreg., August 30: Proposed is a land management plan for the 155,000 acre North Siskiyou Planning Unit within the Klamath, Rouge River, and Siskiyou National Forests located in Siskiyou County, California and Jackson and Josephine Counties, Oregon. The preferred alternative includes: 1) the designation of 25,870 acres of the Kangaroo Roadless area as wilderness; 2) Emphasis on primitive and undeveloped dispersed recreation in higher elevations; 3) emphasis on timber production and general dispersed recreation in the more densely forested lower elevations; and 4) emphasis on Wildlife Management, Visual Resources, and Water Quality. (DEIS-05-05-79-02) (EIS order No. 90924.)

Final

Burnt Powder Planning Unit, Wallowa-Whitman National Forest, several counties in Oregon, August 28: Proposed is a land management plan for the Burnt Powder Planning Unit located in the Wallowa-Whitman National Forest in the Counties of Baker, Grant, Malheur and Union, Oregon. The proposal will cover 670,778 acres of National Forest Lands. The preferred alternative includes management or maintenance of: (1) Wood fiber production, (2) Big game winter area and habitat, (3) Scenic and recreation characteristics, (4) Municipal watershed values, (5) Wilderness, (6) Undeveloped forest characteristics, and (7) Other features. (USDA-FS-R6-FES(ADM)-78-17). Comments made by: AHP, BPA, COE, DOI, DOE, EPA, HUD, USDA, State and local agencies, groups, individuals and businesses. (EIS order No. 90917.)

Rural Electrification Administration

Final

New Madrid-Blytheville 500kv Transmission Line, New Madrid County, Mo.; Mississippi County, Ark., August 31: Proposed is the awarding of financing assistance for the construction of a portion of the 55 mile New Madrid-Blytheville 500kv transmission line and related facilities. The transmission line would begin in New Madrid County, Missouri, pass through Pemiscott County and possibly (depending on the alternative chosen) Dunklin County, and ending at Blytheville, Mississippi County, Arkansas. The facilities include construction of a new substation in Blytheville and expansion of the existing 354kv substation at New Madrid. Assistance would apply only to the Missouri portion of the project. (USDA-REA-EIS(ADM)-79-2-F). Comments made by: EPA, USDA, DOI, State agencies. (EIS order No. 90928.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 693-6795.

Draft

Ogdensburg Harbor Navigation Improvement, St. Lawrence County, N.Y., August 27: Proposed are commercial navigation improvements for Ogdensburg Harbor located in St. Lawrence County, New York. The current federally authorized depths are for channels 19 feet and for the lower basin 21 feet. The Ogdensburg Bridge and Port Authority dredged a portion of the basin to 27 feet. The improvements would include an authorized maintenance of 27 feet depth for the channel. The alternatives considered include: (1) No action, (2) removal of hard shoal area, (3) Dredging of the lower basin to seaway depth, (4) Maintenance of channel at 27 foot depth, and (5) Others. (Buffalo District). (EIS Order No. 90910.)

Final

Boat Key Harbor Navigation and Safety Improvement, Monroe County, Fla., August 31: The project described in this statement concerns improvements to the Boat Key Harbor, located in the city of Marathon, Monroe County, Florida. The purpose of these actions are to provide safe navigation and reduce periodic boat damages by deepening the cahnnel to 12 feet, widening it to 100 feet, and providing a turning basin 200 x 500 feet. The dredged material will be removed by barges to transfer points and piped into Borrow Pits at Ohio Key Bahia Honda Bridge. The Spanish Harbor Key Borrow Pit will also be used. The original draft EIS, No. 70139, filed February 1977 was replaced by revised draft, No. 80566, filed May 25, 1977. (Jacksonville District). Comments made by: DOI, DOC, EPA, NWF, State and local agencies. (EIS Order No. 90929.)

Mariners Two Marina, Permit, Middle River, Baltimore County, Md., August 31: The proposed action is the issuance of a permit to construct a 330-slip commercial marina with 16 piers and catwalks, the installation of 536 mooring piles and a travel lift. In addition, the applicants intend to provide a restaurant, a swimming pool, several tennis courts, bathhouses, boating sales and services, and pump-out facilities. The proposed project will be known as The Mariners Two Marina and would be located about ten miles east of downtown Baltimore on a tributary to the Middle River which is in Baltimore County, Maryland. (Baltimore District). Comments made by: HEW, DOI, EPA, DOC, State and local agencies, groups, individuals and businesses, (EIS Order No. 90933.)

DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694-4269.

Draft

RMA Expanded North Boundary Containment Operations, Adams County, Colo., August 31: Proposed is the construction and operation of an expanded North Boundary containment treatment system for contaminated groundwater control at Rocky Mountain Arsenal in Adams County, Colorado. The plan involves extending the existing pilot containment system which consists of a groundwater collection subsystem, a water purification subsystem, and a groundwater recharge subsystem. The alternatives considered are: (1) no further expansion of the pilot system, and (2) delayed action with initiation of only source control measures. (EIS Order No. 90927.)

DEPARTMENT OF COMMERCE

Final Supplement

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

Surf Clam and Ocean Quahog Industries, FMP (FS-2), Atlantic Ocean, August 30: This statement supplements final EIS No. 71292, filed October 17, 1977. Proposed is Amendment 2 to the Surf Clam and Ocean Quahog FMP for the NW Atlantic Ocean. This extends the current FMP through the end of calendar year 1981. The FMP remains in the existing form which includes: rebuilding the declining surf clam populations; minimize short-term economic dislocations to the extent possible; and prevent the harvest of ocean quahog from exceeding maximum sustainable yield and direct the fishery toward maintaining optimum yield. Comments made by: DOT, State agencies, businesses. (EIS Order No. 90922.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, D.C. 20585, (202) 252-4600.

Final

Elk Hills Naval Petroleum Reserve No. 1, Kern, County, Calif., August 30: This statement evaluates the DOE's proposed plans for increasing the production of Naval Petroleum Reserve No. 1, (Elk Hills) located in Kern County, California. The production rate would be increased to the maximum efficient rate mandated by Public Law 94-258. The actions involved would include required systems for oil, gas, and water collection and distribution; gas processing and transport; wastewater disposal; and support facilities and roads. Alternatives to this proposal

include: alternative maximum production methods, other methods for shipping gas liquids, postponement, and no action. (DOE/EIS-0012-F). Comments made by: AHP, USDA, COE, DOI, DOT, EPA, State and local agencies. (EIS Order No. 90926.)

ENVIRONMENTAL PROTECTION AGENCY

Draft

Contact: Mr. Eugene Wojcik, Chief, EIS Section, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2157.

Rural Lake waste treatment systems, case study 3, Emmet County, Mich., Sept. 30: Proposed is the awarding of a grant for a 201 facility plan for the Crooked/Pickerel Lakes facility planning area located in Emmet County, Michigan. The Preferred Alternative is a limited action alternative and includes: (1) The upgrading of most on-site systems by replacing undersized septic tanks, and upgrading existing drainfields or replacing them with elevated sand mounds, (2) service of the Ellsworth Point and Botsford Landing areas by cluster systems, and (3) service of the Crooked/Pickerel Channel area by holding tanks. Five other alternatives are considered. This is case study 3 for alternative waste treatment systems for Rural Lake projects. (EIS Order No. 90925.)

Final

Huron Valley WWT control system facilities plan, Wayne and Oakland Counties, Mich., Sept. 28: Proposed is the construction of the Huron Valley wastewater control system to provide service to portions of Wayne and Oakland Counties, Michigan. The project will consist of a regional interceptor sewer approximately 50 miles long and a 49.2 MGD. Wastewater treatment plant which would be built adjacent to Lake Erie. Effluent would be discharged via a 10,000 foot outfall sewer to the mid-channel confluence of the Detroit River and Lake Erie. The new treatment facility would provide conventional secondary treatment with phosphorus removal. Comments made by: DOT, DOC, State and local agencies, groups, individuals and business. (EIS Order No. 90921.)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S-22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 275-4150.

Supplement

Kerckhoff project No. 96, San Joaquin River (DS-1) Fresno and Madera Counties, Calif., Sept. 30: This statement supplements a final EIS filed in February of 1979 concerning the issuance of a license to modify, operate, and maintain the existing Kerckhoff project No. 96 located on the San Joaquin River in Fresno and Madera Counties, California. This statement discusses modification of the construction plans. The modifications include: (1) Access to the new powerhouse by Smalley Road, (2) relocation of the switchyard spoil pile, (3) increase of the length of the tailrace channel, and (4) consolidation of the three proposed construction work areas into one site. (FERC/EIS-0005-S) (EIS Order No. 90923.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6300.

Draft

Archdale Subdivision, Charleston, Dorchester County, S.C., Sept. 30: Proposed is the issuance of HUD home mortgage insurance for the Archdale Subdivision located in Dorchester County, South Carolina. The development will contain approximately 1500 dwelling units including single-family housing, apartments, and patio homes. Also included in the plan is development of an 80 acre tract of land for commercial, industrial and institutional facilities. (HUD-RO4-EIS-78-15) (EIS Order No. 90930.)

Hunter's Hollow planned community, Shelby County, Tenn., Sept. 27: Proposed is the issuance of HUD home mortgage insurance for the Hunter's Hollow planned community located in Shelby County, Tennessee. The development would include single-family houses, apartments, and townhouses for a total of 2,326 dwelling units. Also included are plans for a community shopping complex and a church. Construction of a health care facility is considered as an alternative use of the area planned for townhouses on the corner of Macon Road and Germantown Road. (HUD-RO4-EIS-78-20) (EIS Order No. 90912.)

Final

Single family construction application procedures policy, Sept. 22: Proposed is a major revision of HUD Handbook 4123.1, "Procedures for Approval of Single Family Proposed Construction Applications in New Subdivisions," providing new procedures to be used in lieu of standard subdividion analysis conducted by HUD staff. These new procedures would be implemented through two major changes which are: (1) Local area certification, and (2) developer certification. Local area certification will be issued for local jurisdictions which HUD determines have subdivision and environmental criteria and controls acceptable to HUD. The developer certification procedure will be used in noncertified communities. Comments made by: (EIS Order No. 90934) (see Appendix VI.)

Final

Cross Creek Community, Plano, Collin County, Tex. Sept. 27: Proposed is the issuance of HUD home mortgage insurance for a portion of the Cross Creek Community in Plano, Collin County, Texas. The plan considers the development of 793 acres of the 1,214 acre project area with 3,612 dwelling units at a density of 4 units per acre-single family, and 12 per acre-multifamily units consisting of duplexes, apartments, townhouses, condominiums, or clusters. (HUD-R06-EIS-79-18F) Comments made by: EPA, DOI, DOE, USDA, COE, VA, DOT, AHP, State and local agencies. (EIS order No. 90913.)

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Burbank City Center redevelopment project (CDBG), Los Angeles County, Calif., Sept. 28: Proposed is the awarding of CDBG funds to the city of Burbank, Los Angeles County, California for the development of a regional shopping center. The shopping center would consist of four, or possible five, major department stores, along with other complementary uses, comprising up to 896,000 square feet of leaseable area and associated parking for 3,900 cars. (EIS Order No. 90920)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Bureau of Land Management

Draft

OCS five year oil and gas lease schedule, several areas, Sept. 28: Proposed is a five-year schedule consisting of 30 oil and gas lease sales in 15 areas of the OCS. Seven alternatives are considered which include: (1) Two which would delay sales, (2) three which would involve omissions of sales from the schedule, (3) a final schedule for 33 sales in 13 leasing areas, and (4) no action. The schedule includes sales offshore of all east coast states, Alabama, Mississippi, Louisiana, Texas, California, and Alaska. (EIS Order No. 90919.)

Bureau of Reclamation

Final

Closed Basin Division, San Luis Valley project, Alamosa and Saguache Counties, Colo., Sept. 27: Proposed is a multiple-purpose water resource project for the Closed Basin Division of the San Luis Valley project, located in Alamosa and Saguache Counties, Colorado. The project will deliver water to the Rio Grande River now being removed by evaporative processes from the Closed Basin. Project features consist of: 95 to 165 production wells, laterals, electric transmission facilities, conveyance channel, and miscellaneous structures. The project will also include the establishment of the Mishak National Wildlife Refuge (NWR), delivery of water to the Alamosa NWR, stabilization of the San Luis Lake water level, and recreational facilities at San Luis Lake. (FES-79-37) Comments made by: AHP, COE, DOC, HEW, DOI, EPA, FERC, USDA, DOT, State and local agencies, groups and individuals. (EIS Order No. 90914)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 3371, 12th & Constitution Ave., N.W., Washington, D.C. 20433, (202) 275–7692.

Draft

Purchase of Rock Island Railroad Line, New Mexico, and Missouri, August 31, 1979. Proposed is the purchase of a portion of the Rock Island Railroad Company's line between Santa Rosa, New Mexico and St. Louis, Missouri by the St. Louis Southwestern Railroad Company. In addition the Missouri Pacific Railroad Company has filed application for purchase of the same line. The purchase would also involve the rehabilitation and upgrading of the line along with alteration of certain freight movement patterns. Five alternatives are considered. (Finance Docket Nos. 28799 & 29028). (EIS Order No. 90931.)

Final

Discontinuance of Conrail Operation, Indiana, and Illinois, August 28, 1979. Proposed is the discontinuance of the operation of Consolidated Rail Corporation (Conrail) passenger trains, Nos. 453 through 456, between Valparaiso, Indiana and Chicago, Illinois. The total distance is 44 miles. If discontinuance is authorized, a mass transportation system is Northwest Indiana will be eliminated. The applicant is contemplating the elimination of freight service also. The alternatives include: (1) Denial, (2) Partial discontinuance, (3) Funding or continued operation by others, (4) Fare increase, (5) Replacement bus service and (6) Improved service. (Docket No. 29021F.) Comments made by: DOT, State and local agencies, businesses. (EIS Order No. 90916.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Aviation Administration

Draft

Logan International Airport, Runway 22 Right, Suffolk County, Mass., August 27: Proposed is the selection of a procedure for use by turbojet aircraft using runway 22right to depart Logan International Airport located in Suffolk, County, Massachusetts. The alternative procedures considered are: (1) a 210 degree compass heading, (2) a 180 degree compass heading with right turn, (3) a 180 degree compass heading with left turn around, (4) a 140 degree compass heading to intercept the 160 degree radial of the Boston Vortac, and (5) a 195 degree compass heading to intercept the 220 degree radial of the Boston Vortac. (EIS order No. 90911.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

IN–66 Improvement, 4th Avenue to Proposed I–164, Vanderburgh County, Ind., August 28: Proposed is the improvement of IN–66 from Fourth Avenue to the proposed I–164 in Evansville, Vanderburgh County, Indiana. The improvement would be the construction of a new roadway along the existing alignment for approximately 6.5 miles. The facility would be six lanes from Fourth Avenue to Green River Road and then four lanes to the I–164 spur. Access would be limited to selected roadways. The alternatives considered are build and no action. (FHWA–IND–EIS–78–07–D). (EIS order No. 90918.)

Draft

Lomas Verdes Avenue, PR–174 to PR–176, Puerto Rico, August 25: Proposed is the construction of Lomas Verdes Avenue from PR–174 in the municipality of Bayamon on the west to PR–176 in the municipality of San Juan on the west within Puerto Rico. The project is approximately 6.4 miles in length and will be a six lane, divided arterial highway classified locally as an avenue. Access to the facility would be uncontrolled except within and at approaches to, major intersections. Throughout most of the length of the project, the roadway will overlie the two to four lane highway which would be replaced. (FHWA–PR–EIS–79–01–D) (EIS Order No. 90773.)

The Above Draft EIS has been retracted as of this September 7, 1979 Federal Register. (See Appendix IV.) The EIS was refiled as of August 31, 1979. The comment period will begin on September 7, 1979 and comments will be due October 22, 1979.

Final

LaFayette Railroad relocation Tippecanoe County, Ind., Sept. 28: The proposed action is to relocate and consolidate the N&W and L&N Railroad rights-of-way into one corridor through the city of LaFayette and to separate the major highway crossings from the combined railroad facilities. Approximately 4.2 miles of N&W double-track main line and 2.6 miles of L&N single-track main line would be relocated. This project is located in Tippecanoe County, Indiana. (FHWA–Ind–EIS–77–05–F.) Comments made by: COE, DOT, DOC, EPA, HUD, USDA, DOI, state and local agencies, groups, individuals and businesses. (EIS Order No. 90915.)

EIS's Filed During the Week of Aug. 27 to 31, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
Alaska		Draft	Chatham and Stikane Areas Timber Sale, Tongass NF.	90932	08–31–79	USDA
Atlantic Ocean		Final	Supp. Surf Clam and Ocean Quahog Industries, FMP (FS–2).	90922	08–30–79	DOC
Arkansas	Mississippi	Final	New Madrid-Blytheville 500kV Transmission Line	90928	08–31–79	USDA
California		Draft	North Siskiyou Planing Unit	90924	08–30–79	USDA
	Fresno	Supple	Kerckhoff Project No. 96, Sun Joaquin River (DS–1)	90923	08–30–79	FERC
	Kern	Final	Elk Hills Naval Petroleum Reserve No. 1	90926	08–30–79	DOE
	Los Angeles	Draft	Burbank City Center Redevelopment Project (CDBG).	90920	08–28–79	HUD
	Madera	Supple	Kerckhoff Project No. 96, Sun Joaquin River (DS–1)	90923	08–30–79	FERC
Colorado	Adams	Draft	RMA Expanded North Boundary Containment Operations.	90927	08–31–79	USA
	Alamosa	Final	Closed Basin Division, San Luis Valley Project	90914	08–27–79	DOI
	Saguache	Final	Closed Basin Division, San Luis Valley Project	90914	08–27–79	DOI
Florida	Monroe	Final	Boat Key Harbor Navigation and Safety Improvement.	90929	08–31–79	COE
Illinois		Final	Discontinuance of ConRail Operation	90916	08–28–79	ICC
Indiana		Final	Discontinuance of ConRail Operation	90916	08–28–79	ICC
	Tippecanoe	Final	Lafayette Railroad Relocation	90915	08–28–79	DOT
	Vanderburgh	Draft	IN–66 Improvement, 4th Avenue to Proposed I–164	90918	08–28–79	DOT
Maryland	Baltimore	Final	Mariners Two Marina, Permit, Middle River	90933	08–31–79	COE
Massachusetts	Suffolk	Draft	Logan International Airport, Runway 22Right	90911	08–27–79	DOT
Michigan	Emmet	Draft	Rural Lake Waste Treatment Systems, Case Study 3.	90925	08–30–79	EPA

EIS's Filed During the Week of Aug. 27 to 31, 1979

[Statement Title Index—By State and County] —Continued

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
	Oakland	Final	Huron Valley WWT Control System Facilities Plan ...	90921	08-28-79	EPA
	Wayne	Final	Huron Valley WWT Control System Facilities Plan ...	90921	08-28-79	EPA
Missouri		Draft	Purchase of Rock Island Railroad Line	90931	08-31-79	ICC
Missouri	New Madrid	Final	New Madrid-Blytheville 500 kV Transmission Line....	90928	08-31-79	USDA
New York	St. Lawrence	Draft	Ogdensburg Harbor Navigation Improvement	90910	08-27-79	COE
New Mexico		Draft	Purchase of Rock Island Railroad Line	90931	08-31-79	ICC
Oregon		Draft	North Siskiyou Planing Unit	90924	08-30-79	USDA
	Several	Final	Burnt Powder Planning Unit, Wallowa-Whiteman NF	90917	08-28-79	USDA
	Josephine	Draft	North Siskiyou Planing Unit	90924	08-30-79	USDA
Puerto Rico		Draft	Lomas Verdes Avenue, PR-174 to PR-176	90773	08-31-79	FHWA
Several		Draft	OCS Five Year Oil and Gas Lease Schedule	90919	08-28-79	DOI
South Carolina	Dorchester	Draft	Archdale Subdivision, Charleston	90930	08-31-79	HUD
Tennessee	Shelby	Draft	Hunter's Hollow Planned Community	90912	08-27-79	HUD
Texas	Collin	Final	Cross Creek Community, Plano	90913	08-27-79	HUD
Policy		Final	Single Family Construction Applications Procedures	90934	08-22-79	HUD

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965.	Chatham and Stikane Areas, Tongass National Forest, Timber Sale Operating plan, Alaska.	Draft 90932	Sept. 7, 1979 (see app. I).	Extension	Dec. 1, 1979.
DEPARTMENT OF DEFENSE, ARMY					
Col. Charles E. Sell, Chief of The Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694-4269.	Fort Sill Training Installation, Ongoing Mission, Okla..	Draft 90611	June 29, 1979	Extension	Sept. 28, 1979.
	Fort Wainwright, Land Withdrawal for the 172d Infantry Brigade, Alaska.	Draft 90698	July 20, 1979	Extension	Oct. 1, 1979.
	Fort Greely, Land Withdrawal for the 172d Infantry Brigade, Alaska.	Draft 90699	July 20, 1979	Extension	Oct. 1, 1979.
	Fort Richardson, Land Withdrawal for the 172d Infantry Brigade, Alaska.	Draft 90700	July 20, 1979	Extension	Oct. 1, 1979.
	Fort Bliss, Ongoing Mission and Activities, Tex.	Draft 90701	July 20, 1979	Extension	Sept. 28,1979.
	Ongoing Mission, Fort Story, Va ...	Draft 90743	July 27, 1979	Extension	Sept. 28, 1979.
	Fort Lewis Military Installation, Fort Lewis and Yakima Firing Center, Wash.	Draft 90744	July 27, 1979	Extension	Oct. 1, 1979.
	Fort Wainwright, Installation Utilization for 172d Infantry Brigade.	Draft 90799	Aug. 3, 1979	Extension	Oct. 15, 1979.
	Fort Belvoir, Ongoing Mission, Fairfax County, Va.	Draft 90800	Aug. 3, 1979	Extension	Sept. 28, 1979.
	Fort Greely Installation Utilization for the 172d Infantry Brigade, Alaska.	Draft 90801	Aug. 3, 1979	Extension	Oct. 15, 1979.
	Fort McCoy Ongoing Mission, Sparta, Wis.	Draft 90802	Aug. 3, 1979	Extension	Sept. 28, 1979.
	Fort Richardson Installation Utilization for the 172d Infantry Brigade, Alaska.	Draft 90803	Aug. 3, 1979	Extension	Oct. 15, 1979.
	Fort Eustis Ongoing Mission, U.S. Army Transportation Center, Va.	Draft 90804	Aug. 3, 1979	Extension	Sept. 28, 1979.
	Fort Lee Ongoing Mission, U.S. Army Quartermaster Center, Prince Georges County, Va.	Draft 90806	Aug. 3, 1979	Extension	Sept. 28, 1979.
	Carlisle Barracks Ongoing Mission, Carlisle Borough, Cumberland County, Pa.	Draft 90839	Aug. 10, 1979	Extension	Oct. 15, 1979.
	Fort Leonard Wood Ongoing Mission, Pulaski, LaClede, and Texas Counties, Mo.	Draft 90840	Aug. 10, 1979	Extension	Oct. 15, 1979.
	Fort A. P. Hill Ongoing Mission, Bowling Green, Va.	Draft 90841	Aug. 10, 1979	Extension	Oct. 15, 1979.
	Fort McClellan Ongoing Mission, Ala..	Draft 90842	Aug. 10, 1979	Extension	Oct. 15, 1979.
	Fort Leavenworth Ongoing Mission, Kans..	Draft 90866	Aug. 17, 1979	Extension	Oct. 19, 1979.

Appendix III.—*EIS's Filed With EPA Which Have Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing statUs/accession No.	Date notice Of availability published in "Federal Register"	Date of Withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS Status/number		Date notice published in "Federal Register"	Reason for retraction
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. 7th Street SW. Washington, D.C. 20590, (202) 426-4357..	PR-177 Lomas Verdes Avenue, PR-174 to PR-176 Bayamon, Guaynobo and San Juan, P.R..	Draft 90773	Aug. 3, 1979	The final EIS was retracted in the Sept. 7, 1979, Federal Register. The EIS has been refilled as of Aug. 31, 1979. The comments are due on Oct. 22, 1979. (See app. I).

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/ accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Streeet S.W., Washington, D.C. 20590, (202) 426-4357.	Primary Highway Extension I-40/ I-95 near Benson to Wilmington, North Carolina.	Final Supp. 90720	July 20, 1979	Agency number was incorrect, should have been (FHWA-WA-NC-EIS-77-07-FS).
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6306.	Procedures for approval of single family proposed construction, applications.	Final 90934		Should have been published in the Aug. 31, 1979 FEDERAL REGISTER. The comment period began on Aug. 31, 1979 and will end on Oct. 1, 1979. (See app. I).

[FR Doc. 79-28049 Filed 9-6-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1314-4]

Proposed New System of Records

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed new system of records.

SUMMARY: As required by law (5 U.S.C. 552a) the U.S. Environmental Protection Agency is publishing for comment a new system of records that is maintained by the Agency. The proposed system is "Time Accounting Information System".

EFFECTIVE DATE: This system shall become effective as proposed, without further notice on November 5, 1979, unless comments are received on or before October 8, 1979, which would result in a contrary determination.

ADDRESS: Send comments to the Office of Toxic Substances, Office of Pesticide Programs, Program Support Division (TS-757), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Norman Chlosta, Program Support Division, Office of Pesticide Programs (TS-757), 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 755-8026.

SUPPLEMENTARY INFORMATION: Reports describing this system have been filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget in accordance with 5 U.S.C. 552a (o) of the Privacy; Act.

Dated: September 4, 1979.

C. W. Carter,

Acting Assistant Administrator for Planning and Management.

EPA-12

SYSTEM NAME:

Time Accounting Information System.

SYSTEM LOCATION:

Environmental Protection Agency, Office of Pesticide Programs, Program Support Division (TS-757), 401 "M" Street, S.W., Washington, D.C. 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Most current and past Office of Pesticide Programs (OPP) employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records are computerized and contain information about OPP employees including employee's name, employee identification number, hours worked during each pay period, and work-activity classification for each pay period.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95-396 92 STAT. 838 7 U.S.C. 136y.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

These records and information in the records may be used: As a data source for management information to produce summary descriptive statistics and analytical studies reflecting the OPP allocations of costs and work-hours by budget decision unit. Reports generated by this system may be used by OPP managment to substantiate requests from EPA Management, Office of Management and Budget, and Congress concerning activities conducted under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. To respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on time sheets, magnetic tape, and magnetic disk.

RETRIEVABILITY:

The records are indexed by employee number, name, and organization.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. The system manager must authorize managers to use the system in writing prior to reports being generated from the system. Any release of information contained in this system outside the Office of Pesticide Programs, without the written consent of the system manager, is prohibited.

RETENTION AND DISPOSAL:

These records are maintained on magnetic tape on a permanent basis. Tape and disk files, on which data are stored, are only available through the Chief, Systems Support Branch, Program Support Division. Information contained will not be released without the written approval of the system manager.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Support Division (TS-757), Office of Pesticide Program, U.S. Environment Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 426-9033.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contain a record pertaining to the requesting individual may be made in person during normal business hours at the Director's Office, Program Support Division, Office of Pesticide Programs, 401 M Street, S.W., Washington, D.C. 20460.

RECORD ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact or address their inquiries to the system manager listed above.

CONTESTING RECORD PROCEDURES:

See record access procedures above.

RECORD SOURCE CATEGORIES:

The data sources are the bi-weekly Pesticide Program Time Sheet, submitted by the individual employees of the OPP.

[FR Doc. 79-28048 Filed 9-6-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Title I—Elementary and Secondary Education Act, Intent To Waive Certain Requirements for Puerto Rico

AGENCY: Office of Education, HEW.

ACTION: Notice of Intent to Waive Certain Title I, ESEA Requirements for Puerto Rico, during the period July 1, 1979 through July 1, 1980.

DATES: All written comments must be received on or before October 9, 1979.

ADDRESSES: Division of Education for the Disadvantaged, U.S. Office of Education, 400 Maryland Avenue, S.W., (Room 3642-E, ROB-3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mrs. Genevieve Dane, (202) 245-2506.

SUMMARY: Notice is hereby given that, under the Education Amendments of 1978, the Commissioner intends to waive certain Title I, ESEA requirements for the Puerto Rico Department of Education during the period July 1, 1979 through July 1, 1980. In addition to identifying the title I requirements that the Commissioner intends to waive, this notice contains the terms and conditions, upon which the Commissioner intends to grant the waiver.

SUPPLEMENTARY INFORMATION:

A. Authority for Granting a Waiver

The Elementary and Secondary Act of 1965 was amended by the Education Amendments of 1978 to authorize the Commissioner to waive title I, ESEA requirements for Puerto Rico. In particular, section 1004(b)(1) of the Act states that "if the Commissioner determines that compliance with any of the requirements of title I by Puerto Rico is impractical or inappropriate because of conditions particular to that jurisdiction, he may waive any of those requirements upon the request of the State educational agency . . . ."

B. Waiver Request

On June 15, 1979, the Puerto Rico Department of Education requested the Commissioner to waive the applicability of certain title I requirements to all title I funds obligated by the Department during the period from July 1, 1979 through July 1, 1980. This waiver request identifies the requirements contained in, or based upon, the following sections of the title I statute as those for which the Puerto Rico Department of Education is seeking a waiver:

Section 123(a)
Section 124(a)
Section 124(b)
Section 124(g)(1)
Section 126(b)
Section 126(c)
Section 126(e)
Section 183(f)

The June 15, 1979 waiver request clearly describes why the title I requirements listed above are impractical or inappropriate in light of conditions in Puerto Rico. In general, the request is based upon the widespread poverty and educational deprivation that exists throughout the Island. By seeking a waiver for some of the "categorical" requirements of title I, the Puerto Rico Department of Education hopes to be permitted to use title I funds for activities that are designed to upgrade the entire system.

C. Management Plan

Section 1004(b)(2) of the Elementary and Secondary Act of 1965 provides that any waiver of title I requirements for Puerto Rico must ". . . be subject to such terms and conditions as the Commissioner deems necessary to carry out the purpose of title I, including the submission by Puerto Rico of a plan for the management of the funds provided under such title, in order to insure that those funds are used in a manner designed to achieve the purpose of such title."

In accordance with section 1004(b)(2), the Puerto Rico Department of Education submitted a management plan in conjunction with its June 15, 1979 waiver request. Although the management plan indicates how the total of approximately $102 million in title I funds that will be obligated by the Puerto Rico Department of Education during the period covered by the waiver will be spent, continuing title I funded programs and services are not specifically described. The plan does describe in greater detail how the Department proposes to spend $32 million of the title I funds for new activities that it asserts would upgrade the entire educational system in Puerto Rico. The Department further asserts that these new title I activities (teacher training leading to degrees and certification, remodeling of classrooms that have walls made of asbestos cement, and the hiring and training of district managers) deal with deficiencies in the educational system that effect all students.

We believe that the Puerto Rico Department of Education has made a convincing case that—since the vast majority of students in Puerto Rico are eligible for title I services—the improvements resulting from the proposed teacher training and remodeling of classrooms would significantly benefit the title I children. On the other hand, we are not convinced that the proposed hiring of district managers would meet the standards contained in section 1004(b) of the Elementary and Secondary Education Act.

D. Notice of the Commissioner's Intent To Grant a Waiver

Section 1004(b)(1) of the Elementary and Secondary Education Act requires that at least 30 days prior to approving a request for a waiver of any title I requirements for Puerto Rico, the Commissioner must ". . . publish in the **Federal Register** a notice of his intent to grant such a waiver and the terms and conditions upon which such a waiver will be granted."

In accordance with the above requirement, notice is hereby given that, subject to the terms and conditions described below, the Commissioner intends to waive the requirements contained in the following sections of the title I statute during the period July 1, 1979 through July 1, 1980: 123(a), 124(a), 124(b), 124(g)(1), 126(b), 126(c), 126(e), and 183(f). As requested by the Puerto Rico Department of Education, the Commissioner also intends to exempt Puerto Rico form any regulations or guidelines that are promulgated to implement or interpret those sections. In addition, the Puerto Rico Department of Education's obligation to monitor and enforce compliance with title I requirements (under part C of the title I statute) will be limited to those requirements which are not waived.

Unless the Commissioner publishes another notice in the Federal Register, the Commissioner's approval of Puerto Rico's June 15, 1979 waiver request as described in this notice will be granted on the thirtieth day after publication of this notice of intent.

E. Terms and Conditions Upon Which the Commissioner Intends To Grant a Waiver

The Commissioner intends to approve the request for a waiver only if the Puerto Rico Department of Education formally agrees to comply with the following terms and conditions:

(1) All title I funds that are obligated by the Puerto Rico Department of Education during the period covered by the waiver must be spent in accordance with—

(a) All applicable statutory and regulatory requirements, except those title I requirements specifically identified in the waiver;

(b) These terms and conditions;

(c) The management plan that was submitted in conjunction with the June 15, 1979 waiver request, as modified by the Commissioner's decision to disapprove the proposed use of title I funds to pay the salaries of, or provide training to, district managers; and

(d) A title I budget, for the period covered by the waiver, which has been submitted to and approved by the Commissioner.

(2) If the Puerto Rico Department of Education wishes to deviate from the following proposed expenditures for the new title I special activities by more than 5 percent in either category, it must obtain the prior approval of the Commissioner:

(a) Remodeling of classrooms which have walls built with asbestos cement	$10,000,000
(b) Training of uncertificated teachers which will lead to degrees and certification	20,350,000
Total approved from new special activities	30,350,000

(3) The Puerto Rico Department of Education must, on the following dates, submit status reports to the Commissioner which indicate specifically what has been accomplished by each of the new title I funded special activities (including how many classrooms in rural and urban areas have been remodeled and how many teachers from rural and urban areas have received training):

(a) October 1, 1979;

(b) January 1, 1980; and

(c) April 1, 1980.

(4) In carrying out the new title I funded special activities the Puerto Rico Department of Education must ensure that—

(a) At least an equitable number of the uncertificated teachers who receive training are employed in rural schools;

(b) At least an equitable number of the classrooms that are remodeled are located in rural areas; and

(c) The remodeling of classrooms is done in such a way as to premanently solve the asbestos problem.

(5) During the period covered by the waiver, the Puerto Rico Department ment of Education must make all the staff and the documents that relate to the title I funded special activities available when representatives of the U.S. Office of Education conduct site visits. A team of individuals representing the Office of Education will make at least one visit to Puerto Rico during the period covered by the waiver to observe title I activities. This team may also hold a public meeting to elicit comments from interested persons.

(6) By October 1, 1980, the Puerto Rico Department of Education must submit a report to the Commissioner which includes—

(a) A breakdown of all title I obligations that were incurred during the period covered by the waiver; and

(b) A list of all classrooms that were remodeled which indicates whether the school is located in a rural or urban area; and

(c) A list of the teachers who received training, which indicates whether the teacher is employed by a school in a rural or urban area and whether the training resulted in that teacher becoming certificated.

(7) By December 1, 1979, the Puerto Rico Department of Education must submit to the Commissioner its plan for meeting all title I requirements as of July 2, 1980.

F. Opportunity for Public Comments

The Commissioner invites public comments on this notice of intent. Interested persons may send written comments to Mrs. Genevieve Dane, at the address at the beginning of this notice. All comments must be received by October 9, 1979.

(Catalog of Federal Domestic Assistance No. 13.428, Educationally Deprived Children Local Educational Agencies)

Dated: August 1, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

[FR Doc. 79-28012 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-102-M

Food and Drug Administration

[Docket No. 79M-0201]

Aquarius Soft Lens, Inc.; Premarket Approval of Aqua-Soft®(Deltafilcon A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Aqua-Soft® (deltafilcon A) Hydrophilic Contact Lens sponsored by Aquarius Soft Lens, Inc., Indianapolis, IN. After reviewing the Ophthalmology Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 9, 1979.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFK-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: The sponsor, Aquarius Soft Lens, Inc., Indianapolis, IN 46222, submitted an application for premarket approval of the Aqua-Soft® (deltafilcon A) Hydrophilic Contact Lens to FDA on June 14, 1978. The application was reviewed by the Ophthalmology Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On March 14, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583) (the amendments), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) (the act), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the information upon which the agency's approval is based is available upon request from the Hearing Clerk (address above). Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

The labeling of the Aqua-Soft® (deltafilcon A) lens, like that of other approved soft contact lenses, states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling helps to inform new lens users that they must avoid purchasing inappropriate products, e.g., solutions for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new solutions that FDA approves for use with an approved lens. A sponsor who does not update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR part 12) of the FDA administrative practices and procedures regulations or a review of the application of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing any petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 9, 1979, file with the Hearing Clerk (HFA-305, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Maryland 20857, four copies of each petition and supporting

data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: August 23, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27864 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Frederick Carlson, District Director, Newark District, East Orange, NJ.

DATE: The meeting will be held at 1 p.m., Thursday, September 27, 1979.

ADDRESS: The meeting will be held at the Food and Drug Administration, 2d floor, 20 Evergreen Pl., East Orange, NJ.

FOR FURTHER INFORMATION CONTACT: Lillie Dortch-Wright, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 20 Evergreen Pl., East Orange, NJ 07018, 201-645-3265 or 645-6365.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's policymaking decisions on vital issues.

Dated: August 30, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27865 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Teratology Subcommittee of the Science Advisory Board	October 2 and 3, 9 a.m., National Center for Toxicological Research, Jefferson, AR.	Open public hearing, October 2, 9 a.m. to 10 a.m.; open committee discussion, October 2, 10 a.m. to 4:30 p.m., October 3, 9 a.m. to 12 m.; Ruth Magee, National Center for Toxicological Research, Jefferson, AR 72079, 501-541-4528.

General function of the Committee. The Committee advises on the establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the introduction to teratogensis research and NCTR; the role of teratogensis research in the National Toxicology Program; projects within the perinatal and postnatal branch; the pharmacokynamics branch research; and developmental mechanisms research.

Committee name	Date, time, and place	Type of meeting and contact person
2. Endocrinologic and Metabolic Drugs Advisory Committee	October 4, 9 a.m., Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; A. T. Gregoire (HFD-130), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3520.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Gemfibrozil (IND 8057); Calderol (NDA 18-312); and guidelines for the clinical evaluation of lipid altering agents.

Committee name	Date, time, and place	Type of meeting and contact person
3. Carcinogenesis Subcommittee of the Science Advisory Board.	October 4 and 5, 9 a.m., National Center for Toxicological research, Jefferson, AR.	Open public hearing October 4, 9 a.m. to 10 a.m.; open committee discussion October 4, 10 a.m. to 4:30 p.m., October 5, 9 a.m. to 1 p.m.; Ruth Magee, National Center for Toxicological research, Jefferson, AR 72079, 501-541-4528.

Committee name	Date, time, and place	Type of meeting and contact person
4. Pathology Subcommittee of the Science Advisory Board	October 5, 9 a.m., National Center for Toxicological Research, Jefferson, AR.	Open public hearing October 5, 9 a.m. to 10 a.m.; open committee discussion October 5, 10 a.m. to 12 m.; Ruth Magee, national Center for Toxicological Research, Jefferson, AR. 501-541-4528.

General function of the Committee. The Committee advises on the establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the status report on personnel and pathology backlog; proposed new experiments; and TDMS pathology systems.

Committee name	Date, time, and place	Type of meeting and contact person
5. Oncologic Drugs Advisory Committee	October 11 and 12, 9 a.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open committee discussion October 11, 9 a.m. to 11:30 a.m.; open public hearing October 11, 11:30 a.m. to 12:30 p.m.; open committee discussion October 11, 12:30 p.m. to 5 p.m., October 12, 9 a.m. to 3:30 p.m.; Joyce Creamer, (HFD-150), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4260.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cancer.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discusss Estramustine; Streptozotocin (NDA 17-961); and subcommittee reports on preclinical toxicology guidelines and clinical guidelines for oncologic drugs.

Committee name	Date, time, and place	Type of meeting and contact person
6. Antimicrobial Panel	October 12, and 13, 9 a.m., Conference Rm. B, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD., (October 12), Holiday Inn, Bethesda, MD, (October 13).	Open public hearing October 12, 9 a.m. to 10 a.m.; open committee discussion October 12, 10 a.m. to 4:30 p.m.; October 13, 9 a.m. to 4:30 p.m.; Lee Geismar, (HFD-512), 5600 Fishers Lane, Rockville, MD 20857, 301-443-6057.

General function of the Committee. The Committee reviews and evaluates available date concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before October 9, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review date submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
7. Gastrointestinal Drugs Advisory Committee	October 15 and 16, 9 a.m., Conference Rm. G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing October 15, 9 a.m. to 10 a.m.; open committee discussion October 15, 10 a.m. to 5 p.m., October 16, 9 a.m. to 3 p.m.; Joan Standaert (HFD-110), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of gastrointestinal disease.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss metaclopramide (NDA 17-854); carbenoxylone (NDA 18-059); revised labeling for Tagamet (NDA 17-920); and revision of guidelines for the evaluation of gastrointestinal motility modifying agents.

Committee name	Date, time, and place	Type of meeting and contact person
8. Science Advisory Board	October 23 and 24, 8 a.m., National Center for Toxicological Research, Jefferson, AR.	Open public hearing October 23, 8 a.m. to 9 a.m.; open committee discussion October 23, 9 a.m. to 4:30 p.m.; October 24, 8 a.m. to 2:30 p.m.; Ruth Magee, National Center for Toxicological Research, Jefferson AR 72079, 501-541-4528.

General function of the Committee. The Committee advises on the establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the review of carcinogenesis activities; subcommittee report on micro/immunology/cell biology; indepth review and discussion on teratogenesis research; toxicology data management systems report; and subcommittee reports on mutagenesis and pathology.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HCF-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, DC, area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

Dated: August 30, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27586 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76N-0271; DESI 11683]

Antineoplastic Agents Containing Cyclophosphamide or Thiotepa; Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 79-23134, published at page 44271, on Friday, July 27, 1979, on make the following corrections:

a. On page 44272, in the third column, under "Cyclophosphamide", in the last line of the paragraph lableled "1.", "histicocytic" should be corrected to read "histiocytic";

b. On page 44273, in second column, in the last paragraph, in the sixth and seventh lines, "September 27, 1979"

should be corrected to read "September 25, 1979".

BILLING CODE 1505-01-M

[Docket No. 79F-0310]

The Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2-sulfoethyl methacrylate as a component of copolymers used as adhesives in articles intended for food-contact applications.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street, SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3448) has been filed by the Dow Chemical Co., Midland, MI 48640, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of 2-sulfoethyl methacrylate as a component of copolymers used as adhesives in articles intended for food-contact applications.

The agency has determined that the proposed action falls under § 25.1(f)(1)(v) (21 CFR 25.1(f)(1)(v)) and is exempt from the requirements of an environmental impact analysis report and that no environmental impact statement is necessary.

Dated: August 27, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-27477 Filed 9-16-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 77N-0145 (Sub 2)]

Orphengesic Tablets (Orphenadrine Citrate With Aspirin, Phenacetin, and Caffeine); Denial of Hearing; Refusal To Approve Abbreviated New Drug Application; Declaration of "New Drug" Status

Correction

In FR Doc. 79-23498 appearing at page 44943 in the issue for July 31, 1979, make the following corrections:

(1) On page 44943, in the third column, under the heading, "Effective Date," substitute "July 31, 1979" for "August 30, 1979".

(2) On page 44948, in the second column, in the fourth full paragraph, in the third line, delete the word "close" which appears between the words "come" and "to".

BILLING CODE 1505-01-M

[Docket No. 75N-0232]

Bulk Flavor Labeling; Extension of Effective Date for Compliance

Correction

In FR Doc. 79-23500 appearing on page 44940 in the issue for July 31, 1979, make the following correction: In the second column, under the heading "Supplementary Information," in the second paragraph, in the second line, replace the citation, "32 CFR 1.12(g)(2)" with the citation "21 CFR 1.12(g)(2)".

BILLING CODE 1505-01-M

National Institutes of Health

Report on Bioassay of Dimethyl Terephthalate for Possible Carcinogenicity; Availability

Dimethyl terephthalate (CAS 120-61-6) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of dimethyl terephthalate for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use as a monomer from which ployester fiber is synthesized.

Although it is recognized that both rats and mice may not have received a dose of the test chemical sufficiently high to provide maximum test sensitivity, it is concluded that under the condition of this bioassay, dimethyl terephthalate was not carcinogenic for F344 rats or B6C3F1 mice.

Single copies of the report, Bioassay of Dimethyl Terephthalate for Possible Carcinogenicity (T.R. 121), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: August 30, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-27607 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-08-M

Report on Bioassay of Procarbazine for Possible Carcinogenicity; Availability

Procarbazine (CAS 366-70-1) has been tested for cancer-causing activity with rats and mice in the Caracinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of procarbazine for possible carcinogenicity was conducted by administering the test chemical by intraperitoneal injection to Sprague-Dawley rats and B6C3F1 mice. Applications of the chemical include use as an anticancer drug.

It is concluded that under the conditions of this bioassay, procarbazine was carcinogenic for both Sprague-Dawley rats and B6C3F1 mice, producing several types of tumors in both sexes of these two species.

Single copies of the report, Bioassay of Procarbazine for Possible Carcinogenicity (T.R. 19), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: August 30, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-27606 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona; Accelerated Wilderness Intensive Inventory for the Overthrust Belt Special Inventory, Arizona Strip District

Notice is hereby given that pursuant to the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), and the Bureau of Land Management's Wilderness Inventory Handbook, the public comment period on the completed Wilderness Intensive Inventory for the Overthrust Belt will begin on September 13, 1979 and will end on December 12, 1979.

The comment period for this special wilderness intensive inventory has been

accelerated in order to release lands not having wilderness character from further consideration as wilderness in the Overthrust Belt Area which may contain high energy fossil fuel potential.

The BLM Arizona Strip District Office will hold "open houses" to discuss the findings and to receive public comments.

The schedule for the open houses is as follows:

Flagstaff, Monday, October 1, Coconino County Health Department Auditorium, 2500 North Fort Valley Road.
Phoenix, Friday, October 5, Quality Inn West, 2420 West Thomas Road.
Tucson, Wednesday, October 10, Western Savings and Loan, 3002 North Campbell.
St. George, Utah, Monday, October 15, Four Seasons Motel (North), 747 St. George Blvd.

All Open Houses will be from 3:30 p.m. to 8:00 p.m. Maps and other information about the wilderness intensive inventory can be obtained from the Bureau of Land Management, Arizona Strip District Office, 196 East Tabernacle, St. George, Utah 84770; phone (801) 673–3545.

Edward F. Spang,

Acting State Director.

[FR Doc. 79–27840 Filed 9–6–79; 8:45 am]

BILLING CODE 4310–84–M

Arizona; Accelerated Wilderness Intensive Inventory for the Hualapai-Aquarius Planning Area, Phoenix District

Notice is hereby given that pursuant to the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579), and the Bureau of Land Management's wilderness Inventory Handbook, the public comment period on the completed Wilderness Intensive Inventory for the Hualapai-Aquarius Planning Area will begin on September 13, 1979 and will end on November 12, 1979.

The comment period for the Hualapai-Aquarius wilderness intensive inventory has been accelerated in order to comply with a court-ordered land-use planning and environmental statement schedule.

The BLM Phoenix District Office will hold "open houses" to discuss the findings and to receive public comments.

The schedule for the open houses is as follows:

Flagstaff, Monday, October 1, Coconino County Health Department Auditorium, 2500 North Fort Valley Road.
Kingman, Tuesday, October 2, Mohave County Fairgrounds.
Bagdad, Wednesday, October 3, Copper Kettle Restaurant Lindahl Road.
Wickenburg, Thursday, October 4, Mac Lennan School, 260 West Yavapai.
Phoenix, Friday, October 5, Quality Inn West, 2420 West Thomas Road.
Tucson, Wednesday, October 10, Western Savings and Loan, 3002 North Campbell.

All Open Houses will be from 3:30 p.m. to 8:00 p.m.

Maps and other information about the Hualapai-Aquarius wilderness intensive inventory can be obtained from the Bureau of Land Management, Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017, phone (602) 261–4231.

Edward F. Spang,

Acting State Director.

[FR Doc. 79–27841 Filed 9–6–79; 8:45 am]

BILLING CODE 4310–84–M

Montana; Dyce Creek; Proposed Motorized Vehicle Travel Restrictions

August 29, 1979.

Notice is hereby given that public comments are being accepted for 30 days on proposed motorized vehicle restrictions in the Dyce Creek area pursuant to the provisions of 43 CFR Part 8342.1 and Executive Order 11644. (These restrictions apply to all motorized vehicles, and become effective October 9, 1979.) The area affected by this proposal is located approximately 30 miles west of Dillon, Montana.

It was determined through updating the planning in the Dillon Resource Area in 1979 that no motorized vehicle travel will be allowed from December 1 to May 1 in order to protect wintering deer and elk herds. Prior to recent years the area supported a growing herd of approximately 100 elk, but current census data indicates snowmobile activity has displaced the current herd to less desirable ranges. Also, heavy snowmobile activity has limited opportunities for the wintering herd to increase from the improved range condition realized from better livestock management. It is concluded that these vehicular use restrictions are necessary to protect the wildlife resources.

The specific area affected by this proposal includes all public land within the following area:

T. 6 S., R. 11 W., PMM,
Section 18.
T. 6 S., R. 12 W., PMM,
Sections 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35.
T. 7 S., R. 12 W., PMM,
Sections 2, 3, 4, 5, 9, 10, 15.

Additional information can be obtained at the Dillon Resource Area Office and the Butte District Office, Bureau of Land Management, Montana.

Kannon Richards,

Acting State Director.

[FR Doc. 79–27844 Filed 9–6–79; 8:45 am]

BILLING CODE 4310–84–M

Montana; Muddy Creek Road Closure; Proposed Closure of Road to Motorized Vehicles

August 29, 1979.

Notice is hereby given that public comments are being accepted for 30 days on motorized vehicle restrictions in the Muddy Creek Basin area pursuant to the provisions of 43 CFR Part 8342.1 and Executive Order 11644. The area affected by this proposal is located approximately 70 miles south of Dillon, Montana.

The proposed action would close the Muddy Creek Road to motorized vehicle use from December 1 to May 1. These restrictions would apply to all motorized vehicle travel, and become effective 30 days after publication of this notice.

Approximately 5,400 acres within the closure area serve as elk winter range. The western portion of Muddy Creek Basin provides good security and thermal cover for approximately 100 head of elk; however, the eastern portion of the area lacks extensive areas of such habitat. Elk are easily displaced from this potential winter range by vehicles and snowmobiles. An additional 3,000 acres could be added to this winter range if the proposed vehicle restrictions were implemented. It has been identified through updating the planning in the Dillon Resource Area in 1979 and is concluded that these vehicle restrictions are necessary to protect the wildlife resources.

The specific area affected by this proposal includes all public land within the following area:

T. 12 S., R. 10 W., PMM
Sections 29, 30, 31, 32.
T. 13 S., R. 10 W., PMM
Sections 5, 6, 7, 8, 9, 15, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33.
T. 14 S., R. 10 W., PMM
Sections 4, 5, 8, 9.
T. 14 S., R. 11 W., PMM
Sections 1, 2, 12, 13.

Additional information regarding these restrictions can be obtained at the Dillon Resource Area Office and Butte District Office, Bureau of Land Management, Montana.

Kannon Richards,

Acting State Director.

[FR Doc. 79–27845 Filed 9–6–79; 8:45 am]

BILLING CODE 4310–84–M

[Serial No. M-44456]

Montana; Right-of-Way Corridor Designation

August 28, 1979.

Notice is hereby given that pursuant to section 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1763), the following described public lands are designated as a transportation and utility corridor.

Montana Principal Meridian, Montana

	Acres
T. 27 N., R. 59 E.	
Sec.	
17: N½SW¼, SE¼	240.00
20: NE¼NE¼, S½NE¼	120.00
21: W½NW¼, NW¼SW¼	120.00
26: SW¼, E½SE¼	240.00
27: NW¼NW¼, S½NW¼	120.00
T. 29 N., R. 54 E.	
Sec.	
3: Lot 1	31.85
T. 29 N., R. 55 E.	
Sec.	
4: SW¼SW¼	40.00
5: SW¼NE¼, NW¼SE¼	80.00
8: E½NE¼	80.00
9: NW¼NW¼	40.00
T. 33 N., R. 36 E.	
Sec.	
1: Lots 2, 3, 4, SW¼NE¼, S½NW¼, SW¼	399.06
4: Lot 4	39.11
12: N½NW¼	80.00
T. 33 N., R. 37 E.	
Sec.	
1: Lots 1, 2, 3, 4, S½N½, S½	641.08
2: Lots 1, 2, 3, 4, S½N½, S½	641.68
3: Lots 1, 2, 3, 4, S½N½, S½	638.18
4: Lots 1, 2, S½NE¼, SE¼	318.04
5: Lot 1, SE¼NE¼	79.08
7: NE¼, E½NW¼, N½SE¼	320.00
8: All	640.00
9: All	640.00
10: N½, W½SW¼, E½SE¼	480.00
11: N½	320.00
12: All	640.00
13: N½, N½S½	480.00
14: N½, N½S½	480.00
15: N½NE¼, SE¼NE¼	120.00
T. 33 N., R. 38 E.	
Sec.	
1: Lots 1, 2, 3, 4, S½N½, N½SW¼, SE¼SW¼, SE¼	599.60
2: Lots 1, 2, 3, 4, S½N½, NW¼SW¼, NE¼SE¼	399.86
4: Lots 1, 2, 3, 4, SW¼NE¼, S½NW¼, S½	603.40
5: Lots 1, 2, 3, 4, S½N½, S½	642.60
6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼	643.41
7: Lots 1, 2, 3, 4, E½, E½W½	649.00
8: All	640.00
9: All	640.00
10: SW¼, S½SE¼	240.00
11: SW¼SW¼	40.00
12: NE¼, E½NW¼, SW¼NW¼, S½	600.00
13: N½, E½SE¼, SW¼SE¼	440.00
14: NE¼NE¼, W½W½	200.00
15: All	640.00
17: All	640.00
18: Lots 1, 2, 3, 4, E½, E½W½	647.00
19: N½NE¼	80.00
20: N½, N½SE¼	400.00
21: All	640.00
22: All	640.00
23: W½	320.00
24: NE¼	160.00
26: N½NW¼, SW¼NW¼	120.00
27: N½N½	160.00
28: NE¼NE¼	40.00
T. 33 N., R. 39 E.	
Sec.	
4: SW¼	160.00
5: S½N½, SE¼	320.00
6: Lots 7, 8, 9, 10, 11, 12, SE¼	392.65
T. 33 N., R. 39 E.	
Sec.	
7: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,11, 12, SE¼	626.60
8: NE¼, W½SW¼	240.00
10: E½	320.00
16: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, W½NE¼	468.52
19: Lots 2 and 3	77.33
T. 34 N., R. 36 E.	
Sec.	
7: S½NE¼, NE¼SW¼, N½SE¼	200.00
8: SW¼NW¼, NW¼SW¼	80.00
9: SE¼SE¼	40.00
10: SW¼, S½SE¼	240.00
13: SW¼, W½SE¼	240.00
14: NW¼NW¼, SW¼SE¼	80.00
15: All	640.00
18: SE¼SW¼, SW¼SE¼	80.00
19: Lots 2, 6, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼	239.52
20: S½SE¼	80.00
21: Lots 1, 2, 3, 4, S½N½, SW¼, N½SE¼	561.20
22: NW¼, N½SW¼	240.00
24: E½NW¼, SW¼NW¼, NE¼SW¼	160.00
25: W½NW¼	80.00
26: NE¼, N½NW¼, SE¼NW¼, E½SW¼	360.00
27: NE¼SW¼	40.00
28: SW¼NE¼, W½, W½SE¼, SE¼SE¼	480.00
29: E½SW¼	80.00
30: NE¼, E½NW¼, E½SE¼	320.00
31: Lots 1, 2, 3, 4, E½NE¼, SW¼NE¼, E½SW¼, SE¼	558.12
32: NE¼NE¼, W½NW¼, W½SW¼, SE¼SW¼	240.00
33: E½, N½NW¼	400.00
34: W½W½	160.00
35: NW¼	160.00
T. 34 N., R. 37 E.	
Sec.	
18: SE¼SW¼	40.00
20: E½NW¼, W½NE¼	160.00
21: S½NE¼, SE¼	240.00
22: S½	320.00
23: SW¼SW¼	40.00
25: S½N½, S½	480.00
26: All	640.00
27: All	640.00
28: E½, E½NW¼, NE¼SW¼	440.00
30: E½NW¼	80.00
33: E½	320.00
34: All	640.00
35: All	640.00
T. 34 N., R. 38 E.	
Sec.	
28: SW¼SW¼	40.00
29: S½	320.00
30: Lots 2, 3, 4, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼	489.40
31: Lots 1, 2, 3, 4, E½, E½W½	650.60
32: All	640.00
33: N½NE¼, N½NW¼, SW¼NW¼, W½SW¼, SE¼SW¼, SE¼SE¼	360.00
34: S½	320.00
35: S½S½	160.00
T. 34 N., R. 39 E.	
Sec.	
31: Lots 10 and 11	75.94
T. 35 N., R. 33 E.	
Sec.	
1: Lots 1, 2, 3, 4, S½N½, S½	639.84
2: Lot 1, SE¼NE¼, E½SE¼	159.83
3: Lots 1, 2, 3, 4, S½N½, N½SW¼, SE¼SW¼, SE¼	599.16
4: Lots 1, 2, SE¼NE¼	199.44
12: All	640.00
13: E½	320.00
24: NE¼, E½SE¼	240.00
T. 35 N., R. 34 E.	
Sec.	
3: SW¼NW¼, SW¼	200.00
4: Lots 1, 2, 3, 4, S½N½, S½	651.68
5: Lots 1, 2, 3, 4, S½N½, S½	647.08
6: Lots 5, 6, 7, NE¼SW¼	166.29
8: W½NE¼	80.00
9: E½, E½NW¼	400.00
10: NW¼NE¼, N½NW¼, SW¼NW¼	160.00
15: NW¼, N½SE¼, SW¼SE¼	400.00
19: Lots 1, 2, NE¼, E½NW¼	323.83
21: NE¼NE¼	40.00
22: SE¼NE¼, NE¼SE¼	80.00
23: SW¼NW¼, N½SW¼, SE¼SW¼, SW¼SE¼	200.00
24: SE¼NW¼, NE¼SW¼, NW¼SE¼	120.00
25: E½E½, W½SW¼	240.00
26: W½NE¼, SE¼NE¼, E½NW¼, SW¼NW¼, S½	560.00
27: S½NE¼, N½SE¼	160.00
32: E½	320.00
35: E½NE¼, SW¼NE¼, NE¼SE¼	160.00
T. 35 N., R. 35 E.	
Sec.	
30: Lots 2, 3, 4, SW¼NW¼, E½SW¼	238.56
31: Lots 1, 2, 4, NE¼, E½NW¼, E½SE¼, NW¼SE¼	478.61
Sec.	
T. 36 N., R. 32 E.	
1: Lots 1, 2, SW¼	256.43
2: Lots 1, 2, 3, 4, NE¼SW¼, SE¼	393.88
11: E½NE¼	80.00
12: E½, NW¼, NE¼SW¼, NW¼SW¼, SE¼SW¼	560.00
13: NE¼, NE¼SE¼	200.00
T. 36 N., R. 33 E.	
Sec.	
2: W½SW¼	80.00
3: Lots 1, 2, 3, 4, N½SW¼, SE¼	433.36
4: SW¼	160.00
5: Lot 2	48.43
6: SE¼SW¼, NE¼SE¼, S½SE¼	160.00
7: Lot 1, NE¼, NE¼NW¼, N½SE¼	318.79
8: SW¼	160.00
9: W½, SW¼SE¼	360.00
10: NE¼, E½W½, NE¼SE¼, W½SE¼	440.00
11: NE¼NW¼, W½NW¼, S½SE¼	200.00
12: SW¼SW¼	40.00
13: W½W½, SE¼NW¼	200.00
14: All	640.00
15: All	640.00
17: S½SW¼	80.00
18: Lot 2, SE¼SE¼	79.08
19: E½E½	160.00
20: W½SW¼	80.00
21: SW¼NE¼, NW¼NW¼, S½NW¼, E½SW¼, SE¼	400.00
22: W½E½, W½	480.00
23: NE¼	160.00
24: W½NW¼	80.00
26: S½	320.00
27: W½NE¼, SE¼	240.00
28: NW¼, S½	480.00
29: N½, NE¼SW¼, SE¼	520.00
32: E½NE¼, NW¼NE¼	120.00
33: NW¼	160.00
34: E½NE¼	80.00
35: N½NW¼, SW¼NW¼, NE¼SW¼	160.00
T. 36 N., R. 34 E.	
Sec.	
29: NW¼, SW¼, W½SE¼, SE¼SE¼	440.00
30: E½	320.00
31: Lots 1, 2, 3, 4, E½, E½W½	649.60
32: All	640.00
33: W½, W½SE¼	400.00
T. 37 N., R. 31 E.	
Sec.	
1: Lots 1, 2, 3, 4, S½N½	298.26
12: NE¼	160.00
T. 37 N., R. 32 E.	
Sec.	
3: Lot 4, SW¼NW¼, W½SW¼	154.50
4: Lots 1, 2, 3, 4, S½N½, S½	618.12
5: Lots 1, 2, 3, 4, S½N½,S½	618.46
6: Lots 1, 2, S½NE¼, SE¼	309.31
7: Lots 1, 2, 3, 4, NE¼, E½NW¼, E½SW¼, SE¼	632.96
8: All	640.00
9: All	640.00
10: W½NW¼, S½	400.00
13: E½SW¼, SE¼	240.00
14: N½, SW¼	480.00
15: All	640.00
17: E½, S½SW¼	400.00
18: S½NE¼, NE¼NW¼	120.00
20: E½, NW¼, NE¼SW¼	480.00
21: N½	320.00
22: SW¼, W½SE¼	240.00
23: NW¼	160.00
25: All	640.00
27: W½NE¼, SW¼, W½SE¼	320.00
28: NW¼, E½SE¼	240.00
29: N½NE¼, SE¼NE¼	120.00
33: NE¼, NE¼NW¼, N½SE¼, SE¼SE¼	320.00
34: All	640.00
35: W½W½	160.00
T. 37 N., R. 33 E.	
Sec.	
18: Lots 3 and 4	94.19
19: NE¼, NE¼NW¼	200.00
30: Lot 2	47.92
31: NE¼NW¼	40.00
32: E½SE¼	80.00
33: SW¼NW¼, SW¼, SW¼SE¼	240.00
	65,530.24

This designation also responds to section 2 of the Presidential Decision on the Alaska Natural gas Transportation System of September 22, 1977.

The official map showing the above described corridor is located in the official case file on file in the Bureau of

Land Management Office, 222 North 32nd Street, Billings, Montana 59102.

The lands designated by this notice are subject to administration by the Secretary of the Interior or his delegate under applicable laws and regulations in aid of a granting program for rights-of-way. Rights-of-way for which an application is now pending or subsequent rights-of-way applied for on lands in the vicinity of the corridor may, to the extent practical, be granted within the confines of the corridor, as determined by the Secretary or his delegate. The existence of the designated corridor does not preclude the granting of separate rights-of-way outside the corridor boundaries if the Secretary or his delegate determines that confinement to the corridor is not appropriate.

Nothing in this notice is intended to exclude (totally eliminate) any "principal or major uses" of public lands as defined in Section 103 of the Federal Land Policy and Management Act of 1976, or remove the requirements or any applicable laws or regulations.

Kannon Richards,

Acting State Director.

[FR Doc 79-27842 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Grand Resource Area, Utah; Planning Revision

August 29, 1979.

Notice is hereby given that pursuant to Sec. 202(f) of the Federal Land Policy and Management Act of 1976, the Bureau of Land Management is starting the preplanning analysis for the Grand Resource Area.

The Grand Resource Area is located in Southeastern Utah and includes all of Grand County and the northern third of San Juan County, which entails over 1.5 million acres of public land.

The preplanning analysis is the first step in the Bureau's land use planning system and involves identification of problems and issues that need to be resolved through the planning process. Some of the problems and issues that have been identified to date include: minerals development versus recreation and wilderness values; forage allocation; livestock versus wildlife; designation of off-road vehicle areas; availability of public land for community expansion and locations for solid waste disposal.

The public is encouraged to present their concerns and expectations for the future management of these lands. Those interested should write or visit the Moab District Office of the Bureau of Land Management, P.O. Box 970, 125 West 2nd South, Moab, Utah 84532, by November 6, 1979.

S. Gene Day,

District Manager.

[FR Doc. 79-27936 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Right-of-Way Application

August 31,1979.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Southwest Gas Corporation filed an application for a right-of-way to construct approximately 3220 feet of 16 inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.
Sec. 24, S½S½SE¼;
T. 21 S., R. 61 E.
Sec. 19, SE¼SW¼SE¼SE¼.

The proposed pipeline will reinforce and supplement natural gas service for southern Nevada, particularly the Las Vegas area.

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 do so promptly. Persons submitting comments should include their name and address and send them to the Chief, Division of Technical Services, Bureau of Land Management, 300 Booth Street, Room 3008, Federal Building, Reno, NV 89509.

William J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 79-27922 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37978]

New Mexico; Right-of-Way Application

August 29, 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), Phillips Petroleum Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 18 S., R. 31 E.,
Sec. 24, SE¼SW¼ and SW¼SE¼.

This pipeline will convey natural gas across 0.267 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. 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27924 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38128]

New Mexico; Right-of-Way Application

August 29, 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), Natural Gas Pipeline Company of America has applied for one 8-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 21 S., R. 23 E.,
Sec. 1, lot 7, S½SW¼ and SW¼SE¼;
Sec. 12, NW¼NW¼.
T. 21 S., R. 24 E.,
Sec. 5, N½SW¼;
Sec. 6, NW¼SE¼.

This pipeline will convey natural gas across 1.436 miles 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. 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27925 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38159, 38162, 38172, 38173 and 38175]

New Mexico; Rights-of-Way Applications

August 29, 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 five 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 7 W.,
Sec. 1, SE¼SW¼;
Sec. 12, N½NW¼ and SW¼NW¼;
Sec. 13, N½NW¼;
Sec. 14, NW¼NE¼ and E½NW¼.
T. 28 N., R. 8 W.,
Sec. 17, S½NW¼.
T. 30 N., R. 8 W.,
Sec. 29, lots 7, 10 and 15.

These pipelines will convey natural gas across 1.630 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27926 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38167 and 38168]

New Mexico; Rights-of-Way Applications

August 29, 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), Gas Company of New Mexico has applied for two 4-inch natural gas pipeline rights-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 26 N., R. 7 W.,
Sec. 13, NW¼NW¼;
Sec. 14, NW¼NE¼.

These pipelines will convey natural gas across 0.141 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27927 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38149 and 38174]

New Mexico; Rights-of-Way Applications

August 29, 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 two 4½-inch natural gas pipeline rights-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 8 W.,
Sec. 20, S½SE¼;
Sec. 31, E½SE¼.

These pipelines will convey natural gas across 0.216 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27928 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38129]

New Mexico; Right-of-way Application

August 28, 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), Transwestern Pipeline Company has applied for one 6-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 24 S., R. 25 E.,
Sec. 25, NE¼NE¼, S½NE¼ and SE¼NW¼.
T. 24 S., R. 26 E.,
Sec. 19, SE¼SW¼ and W½SE¼;
Sec. 30, lot 1 and NE¼NW¼.

This pipeline will convey natural gas across 1.617 miles 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. 79-27929 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37979]

New Mexico; Right-of-Way Application

August 28, 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), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 26 N., R. 2 W.,
Sec. 3, SW¼SW¼.

This pipeline will convey natural gas across 0.036 of a mile of public land in Rio Arriba 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 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27930 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38219]

New Mexico; Right-of-Way Application

August 29, 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), Southern Union Gathering

Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 32 N., R. 11 W.,
Sec. 11, NW¼NE¼ and SW¼SE¼.

This pipeline will convey natural gas across 0.194 of a mile of public land in San Juan 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 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27931 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Owyhee Livestock Grazing; Environmental Statement—Intent To Prepare and Scope of Issues

In accordance with the National Environmental Policy Act of 1969, the Boise, District, Bureau of Land Management, will prepare an environmental statement (ES) on allocating available range forage in the western portion of Owyhee County, Idaho, and on one allotment in eastern Oregon.

The purpose of this action is to analyze options and prepare an action plan to manage the range resource on public land to maintain and improve the quality of the vegetation, soils and water resources through:

1. The allocation of forage among competing grazing animals.

2. The management of livestock use by range improvements, land treatments, and intensive management systems.

The proposed action will establish the initial grazing capacity on 150 grazing allotments comrising 1,004,196 acres of public land. Management of the public land will include intensive management on 70 allotments (946,173 acres), Custodial management on 19 allotments (39,225 acres), and 61 allotments (18,798 acres) will be managed as Fenced Federal range.

The initial grazing capacity will be based upon a 50% use limit of all palatable plants and the dietary preference of grazing animals on intensive management areas. The initial grazing capacity on Custodial and Fenced Federal range management areas will be based upon the biological use limit of palatable plants and the dietary preference of grazing animals.

The ES area covers the northern two-thirds of Owyhee Planning Unit. A revised land use plan (Management Framework Plan Step II or MFP II) with multiple use recommendations will be completed before the start of the ES. Proposed forage allocation levels, livestock management systems, range improvements, and land treatments will be established in the revised MFP II recommendations. The proposed alternatives for the grazing ES are based upon the MFP II recommendations and alternatives.

Alternatives to the proposed action being considered are:

1. Implement intensive management on Intensive and Custodial management areas with stocking levels at the present grazing qualifications (does not include suspended non-use).

2. Implement intensive management on Intensive and Custodial management areas with stocking levels at the current active licensed use.

3. Continue the current level of livestock grazing without implementing intensive management.

4. Implement the proposed management with stocking levels at 50% below the proposed initial grazing capacity.

5. Implement the proposed management, with stocking levels based upon the biological use limit of palatable plants and the dietary preference of grazing animals on intensive management areas.

6. Exclude livestock grazing on all public lands. Public involvement has been received through meetings of a special ad hoc committee with broad-based multiple-use membership, through personal discussions with involved ranchers; and through local, state and federal agency contacts. Detailed information on contacts made is available in the District Office.

Meetings have been scheduled to provide for public review of the mutiple use recommendations for the Owyhee Planning Unit. The meetings have also been scheduled to define significant issues in preparing this livestock grazing environmental statement, thus eliminating from detailed study those issues not central to the scope of the statement.

The meetings will be held on September 24 and 25, from 1:00 p.m. to 8:00 p.m. in the BLM Boise District Conference Room at 230 Collings Road in Boise. The meetings will be in an informal open house format, with the following agenda:

1. Present Owyhee MFP II Recommendations.

2. Identify significant issues to be addressed in the proposed action and alternatives of the grazing ES.

Interested people are encouraged to attend one of the meetings to present their views and written comments on these issues.

Written comments may also be sent to BLM, 230 Collings Road, Boise, Idaho 83702 by November 1, 1979. Further information is available at the above address or contact Oscar Anderson, BLM Area Manager, at 208–384–1290 (FTS 554–1290).

James Gabettas,

Acting District Manager.

August 31, 1979.

[FR Doc. 79-27921 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[C-099597-RW]

Waterton Canyon, Colo.; Temporary Closure Order

Notice is hereby given that those public lands within the Waterton Canyon hereinafter legally described and situated near the construction zone for the Strontia Springs reservoir, dam, conduit, tunnel and facilities for the diversion and storage of water, are closed to all public use for an indefinite period of time.

This closure of public lands is for the purpose of providing for the protection of public health and safety during the construction period when hazardous conditions may exist as blasting and excavation work will be conducted on or adjacent to the following described public lands.

Sixth Principal Meridian, Colorado.

T. 7S., R. 69 W.,
Sec. 5: NE¼, S½;
Sec. 8: E½E½;
Sec. 17: E½E½
Sec. 20: N½NE¼, SE¼NW¼, SW¼SW¼, S½SE¼, N½SW¼.

This closure notice is in accordance with the provisions of Sections 302(b) and 303(a) of the Federal Land Policy and Mangement Act of 1976 (43 U.S.C. 1732; 1733) and 43 CFR 6010.4. Violations of this closure order may result in criminal penalties of up to $1,000 in fines and/or 1 year imprisonment for each violation.

Those exempted from this closure include (1) Federal, State and local agencies and their employees on official business; (2) Project contractors and their employees working in the area; (3) Individuals or companies that have legal

possessory or use rights; and (4) Firefighting or medical personnel in cases of emergency.

This notice of closure will remain in effect until construction work is completed or until the public health and safety can be reasonably protected. Maps of the area hereinabove described are available at the Northeast Resource Area Office of the Canon City District of the Bureau of Land Management, located at 10200 West 44th Avenue, Wheatridge, Colorado.

Dale R. Andrus,

State Director.

[FR Doc. 79-27920 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 68913]

Wyoming; Right-of-Way Application

August 30, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Eastern Pipe Line Company of Brighton, Colorado filed an application for a right-of-way to construct a 4" O.D. pipeline gathering system and appurtenant facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 23 N., R. 112 W.,
Sec. 31, lots 10, 11, 12, 14 and 15.
T. 22 N., R. 113 W.,
Sec. 1, lots 1, 2, SW¼NE¼, SE¼NW¼ and SW¼;
Sec. 12, W½NE¼ and NE¼NW¼.

The propsoed pipeline will transport natural gas from the Blackjack #1 Well located in the SW¼ of section 1, and the Blackjack #3 Well located in the SW¼NE¼ of section 12, T. 22 N., R. 113 W., to a point of connection with an existing pipeline in lot 10, of section 31, T. 23 N., R. 112 W., all within Lincoln County, Wyoming.

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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27932 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68853]

Wyoming; Right-of-Way Application

August 29, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½-inch O.D. pipeline and to authorize an existing pipeline originally constructed under oil and gas lease rights for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 19 N., R. 99 W.,
Sec. 14, N½S½; sec. 16, NE¼SE¼.

The proposed and existing pipelines will transport natural gas from the State No. 1–16 Well in the SE¼ of section 16 to a point of connection with an existing pipeline in the SW¼ of section 13, T. 19 N., R. 99 W., Sweetwater County, Wyoming.

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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27933 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 68894]

Wyoming; Right-of-Way Application

August 29, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct four 4½ inch pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 17 N., R. 93 W.,
Sec. 8, S½SW¼.
T. 17 N., R. 94 W.,
Sec. 4, S½NW¼, NE¼SW¼, W½SE¼ and SE¼SE¼.
T. 18 N., R. 94 W.,
Sec. 32, W½SW¼.
T. 18 N., R. 95 W.,
Sec. 14, N½NE¼ and SE¼NE¼,
Sec. 24, N½NE¼ and SE¼NE¼.

The pipelines are proposed additions to an existing gathering system to points of connection with existing gathering lines in Tps. 17 and 18 N., Rgs. 93 and 94 W., Carbon and Sweetwater Counties, Wyoming.

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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27934 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 68904]

Wyoming; Right-of-Way Application

August 30, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Eastern Pipe Line Company of Brighton, Colorado filed an application for a right-of-way to construct 6 inch and 10 inch pipelines and related facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 12 N., R. 95 W.,
Sec. 15, N½SW¼, SW¼SW¼, W½SE¼ and SE¼SE¼;
Sec. 16, NW¼SW¼ and S½S½;
Sec. 17, NE¼SE¼;
Sec. 21, lot 8;
Sec. 22, lots 5 and 6.

The proposed pipelines will connect wells in Sweetwater County, Wyoming for the purpose of gathering and transporting natural gas to the Mountain Fuel Supply Company System.

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 so so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P. O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27935 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Advanced Intensive Wilderness Inventory; Notice of Proposed Decision—Public Comment Period

Notice is hereby given that the Bureau of Land Management has completed intensive wilderness inventories on public lands in the following areas:

Oil and Gas Overthrust Area—Idaho Falls District

The purpose of conducting this intensive inventory in advance of the statewide intensive inventory is to have wilderness data available for consideration in relation to oil and gas activities in the Overthrust Belt within the Idaho Falls District.

Following is the proposed decision:

Units 34–1 through 34–4 Islands, 1,135 total acres. 365 acres lacking characteristics. 770 acres with characteristics.
Unit 34–8 Game Creek, 4,792 total acres. Unit contains characteristics.
Unit 35–77 Henry's Lake, 350 total acres.* Unit contains characteristics.
Unit 36–15 Big Spring, 5,810 total acres. Unit contains characteristics.
Unit 36–18 Rattlesnake Point, 8,365 total acres. Unit contains characteristics.
Unit 37–77 Worm Creek, 40 total acres.* Unit contains characteristics.
Unit 37–88 Mt. Naomi, 240 total acres.* Unit contains characteristics.

A 90-day public review of this proposed decision will begin September 7, 1979, during which time comments will be accepted. To provide an opportunity for public discussion and review of the proposed decision, the following open houses have been scheduled:

September 18, 1979, BLM District Office, Idaho Falls, 11:30 a.m.–8:30 p.m.
September 19, 1979, Teton County Courthouse, Driggs, Idaho, 11:30 a.m.– 8:30 p.m.

*Units less than 5,000 acres dependent upon contiguous RARE II areas to meet the size criteria.

The public comment period will conclude on December 7, 1979. Written comments should be directed to the Idaho State Office or the Idaho Falls District Office of the BLM.

Challis Planning Area—Salmon District

The purpose of conducting this intensive inventory in advance of the statewide intensive inventory is to have wilderness data available when the grazing management program is implemented in the Challis area of the Salmon District.

Following is the proposed decision:

Unit 46–2 Garden Creek, 14,415 total acres. 600 acres lacking characteristics. 13,815 acres with characteristics.
Unit 46–3 Centennial, 8,014 total acres. Unit lacks characteristics.
Unit 46–7 Lone Pine Peaks, 26,840 acres. 2,200 acres lacking characteristics. 24,640 acres with characteristics.
Unit 46–10 Hole-in-the-Rock, 7,950 total acres. Unit lacks characteristics.
Unit 46–11 Corral-Horse Basin, 51,500 total acres. Unit contains characteristics.
Unit 46–13 Boulder Creek, 2,573 total acres.*
Unit 46–14 Jerry Peak, 48,000 total acres. Unit contains characteristics.
Unit 46–14a Jerry Peak West, 15,000 total acres. Unit contains characteristics.

A 90-day public review of this proposed decision will begin September 7, 1979, during which time comments will be accepted. To provide an opportunity for public discussion and review of the proposed decision, the following public informational session has been scheduled: October 11, 1979, American Legion Hall, Challis, Idaho, 7:00 p.m.

The public comment period will conclude on December 7, 1979. Written comments should be directed to the Idaho State Office or the Salmon District Office of the BLM.

Owyhee Planning Area—Boise District

The purpose of conducting this intensive inventory in advance of the statewide intensive inventory is to have wilderness data available as input to the Bureau planning system reports and the draft grazing environmental statement in the Owyhee area of the Boise District.

Following is the proposed decision:

Unit 16–16 Windy Point, 11,289 total acres. Unit lacks characteristics.
Unit 16–25 Mud Spring, 6,996 total acres. Unit lacks characteristics.
Unit 16–26 Hinkle Gulch, 9,072 total acres. Unit contains characteristics.
Unit 16–28 Gertie Butte, 18,762 total acres. 7,742 acres lacking characteristics. 11,020 acres with characteristics.
Unit 16–31 Brown's Creek, 8,464 total acres. Unit lacks characteristics.
Unit 16–34 Boulder Creek, 20,253 total acres. 14,303 acres lacking characteristics. 5,950 acres with characteristics.
Unit 16–36 White Horse, 36,867 total acres. 13,148 acres lacking characteristics. 23,719 acres with characteristics.
Unit 16–38 Little Brown's Creek, 7,735 total acres. Unit lacks characteristics.
Unit 16–40 North Fork Owyhee River, 58,851 total acres. 1,700 acres lacking characteristics. 57,151 acres with characteristics.
Unit 16–41 Horsehead Springs, 6,211 total acres. Unit contains characteristics.
Unit 16–42 Squaw Creek Canyon, 18,297 total acres. 150 acres lacking characteristics. 18,147 acres with characteristics.
Unit 16–43 Smith Creek, 8,442 total acres. Unit lacks characteristics.
Unit 16–44 Deep Creek—Nickel Creek, 40,486 total acres. Unit contains characteristics.
Unit 16–45 Middle Fork Owyhee River, 15,663 total acres. Unit contains characteristics.
Unit 16–46 Field Creek, 8,330 total acres. Unit lacks characteristics.
Unit 16–47 West Fork Red Canyon, 15,970 total acres. Unit contains characteristics.
Unit 16–49a Deep Creek—Owyhee River, 137,320 total acres. 2,460 acres lacking characteristics. 134,860 acres with characteristics.
Unit 16–49b Lambert Table, 17,827 total acres. Unit contains characteristics.
Unit 16–49d Yatahoney Creek, 10,148 total acres. Unit contains characteristics.
Unit 16–51a Coyote Rim, 6,656 total acres. Unit lacks characteristics.
Unit 16–51b Pack Saddle, 12,825 total acres. Unit lacks characteristics.
Unit 16–52 Upper Owyhee River, 16,301 total acres. Unit contains characteristics.
Unit 16–61 Sinker Creek, 12,110 total acres. Unit contains characteristics.
Unit 16–64 Buckaroo Creek, 8,775 total acres. Unit lacks characteristics.
Unit 111–26 Blue Creek, 5,453 total acres. Unit lacks characteristics.

Note.—This unit is adjacent to the Owyhee Planning Area in the proposed Riddle BLM-State land exchange.

A 60-day public review of this proposed decision will begin September 7, 1979, during which time comments will be accepted. To provide an opportunity for public discussion and review of the proposed decision, the following open houses have been scheduled:

October 1, 1979, Catholic Church Parish Hall, Jordan Valley, OR, 1:00 p.m.–9:00 p.m.
October 2, 1979, Owyhee County Courthouse, Murphy, Idaho, 1:00 p.m.–9:00 p.m.
October 3, 1979, Nez Perce Room, Student Union Bldg., Boise State University, Boise, Idaho, 1:00 p.m.–9:00 p.m.

The public comment period will conclude on November 7, 1979. Written comments should be directed to the Idaho State Office or the District Office of the BLM, Boise.

For further information contact: Idaho State Office, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Dated: August 24, 1979.

Rex D. Colton,

Acting Idaho State Director, Bureau of Land Management.

[FR Doc. 79-27354 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Montana; East Fork Blacktail Creek; Proposed Motorized Vehicle Travel Restrictions

August 29, 1979.

Notice is hereby given that public comments are being accepted for 30 days on proposed motorized vehicle restrictions in the East Fork Blacktail Creek area pursuant to the provisions of 43 CFR Part 8342.1 and Executive Order 11644. These restrictions do not apply to emergency law enforcement or other government vehicles used for emergency purposes, or vehicles authorized by permit or contract. Effective date will be 30 days from publication of this notice.

All motorized vehicle travel (including snowmobiles) will be affected by this proposal. No vehicles will be allowed off the main road which traverses Sections 27 and 34, T. 11 S., R. 5W. from May 16 through December 14 and absolutely no motorized vehicles will be allowed in the area from December 1 through May 15.

Currently motorized vehicles traveling throughout the East Fork Blacktail Creek area are reducing the fall-winter security cover for approximately 1,000 head of elk migrating through the area to the adjacent Blacktail Elk Winter Range. Approximately 17 percent of the crucial elk winter range is located within the proposed closure area and a substantial portion of public land serves as calving areas for this herd in late May and early June. Continued harrassment could eventually destroy this critical habitat area and totally destroy the hunting opportunities in one of the most important areas of elk habitat in southwertern Montana. It was concluded through updating the planning in the Dillon Resource Area in 1979 that these vehicular use restrictions are necessary to protect the wildlife resources and hunting opportunties.

The specific area affected by this proposal includes:

T. 11 S., R. 5 W., PPM
Section 13: S½, S½, N½
Section 22: S½S½, NE¼SE¼
Section 28: SE¼, W½NE¼
Section 32: SE¼, S½SW¼
Sections 23, 24, 25, 26, 27, 33, 34, 35

Additional information regarding these restrictions can be obtained at the Dillon Resource Area Office and the Butte District Office, Bureau of Land Management, Montana.

Kannon Richads,

Acting State Director.

[FR Doc. 79-27843 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84

National Park Service

Kalaupapa National Historical Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a public meeting of the Kalaupapa National Historical Park Advisory Commission will be held in Honolulu, Hawaii. The meeting will be on October 18, 1979, and will begin at 10:00 a.m. HST at the Kalihi-Palama Library, 1325 Kalihi St.

The purpose of the meeting is to discuss and evaluate management plans for Kalawao submitted by the State Department of Land and Natural Resources and the National Park Service and to formulate a draft recommendation.

The meeting is open to the public. Anyone may file, with the Commission, a written statement concerning matters to be discussed. A summary of the meeting will be available for public inspection four weeks after the meeting at the Hawaii State Office, National Park Service, 300 Ala Moana Blvd., Suite 6305, Honolulu, HI 96850.

Dated: August 29, 1979.

John H. Davis,

Acting Regional Director, Western Region.

[FR Doc. 79-27915 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Oil Shale Environmental Advisory Panel; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on September 25 and 26, 1979, at the Vernal Elk's Lodge, 35 North 300 West, Vernal, Utah. The meeting will begin at 1:30 p.m. on Tuesday, September 25, and conclude at 4:00 p.m., Wednesday, September 26.

The Panel was established to assist the Department of the Interior in the performance of its function in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program.

The purpose of this meeting is to review a proposal for an air strip in the Piceance Basin, receive reports from Interior officials and from various workgroups of the Panel, to provide advice on Conditions of Approval on Tract C-a lessee's environmental monitoring plan, to be briefed on the Soil Conservation Service Plant Materials Center at Meeker, Colorado, and to consider any other matters which have come before the Panel.

The meeting will be open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the Panel or submit written statements. Requests should be made to the Panel Chairman, Mr Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 820-A, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone No. (303) 234-3275.

Further information concerning this meeting may also be obtained from Mr. Ash's office. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Panel office.

Daniel P. Beard,

Acting Assistant Secretary of the Interior.

September 4, 1979.

[FR Doc. 79-27866 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-10-M

Revocation of Secretary's Orders

This Notice is published in accordance with the provisions of 5 U.S.C. 552(a)(1)(E). The Secretary of the Interior has revoked the following Secretary's Orders which were published in the Federal Register as noted below:

Order No.	Date	Title of order	FEDERAL REGISTER publication
2952	February 13, 1973	Issuance of Prospecting Permits for Coal	38 FR 4682, February 20, 1973.
2996	November 29, 1976	Authority Reserved to the Secretary of the Interior or His Delegate in the Trust Territory of the Pacific Islands.	41 FR 53856, December 9, 1976.
3030	December 4, 1978	Quitclaim and Release of Right, Title, and Interest in Lands of the Trust Territory of the Pacific Islands	43 FR 58123, December 12, 1978.

The revocations were made by Department of the Interior Manual Release No. 2195 dated August 15, 1979. Additional information regarding the foregoing may be obtained from Ms. Vivian A. Keado, Chief, Division of Directives and Reports Management, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202–343–6191.

Dated: August 29, 1979.

William L. Kendig,

Acting Deputy Assistant Secretary of the Interior.

[FR Doc. 79–27846 Filed 9–6–79; 8:45 am]

BILLING CODE 4310–10–M

Office of Federal Contract Compliance Programs

Goals and Timetables for Minority Participation in the Construction Industry; Proposed Notice

This Proposed Notice and Appendix would supersede Appendix B of the Notice issued on April 7, 1978, (43 FR 14899) and corrected on May 5, 1978, (43 FR 19473) and Appendix B–1 of the Notice issued on March 20, 1979, (44 FR 17116) which established goals under Executive Order 11246 for minorities working on construction projects located in certain areas. This Proposed Notice is issued pursuant to 41 CFR 60–4.6 and would establish goals and timetables under Executive Order 11246, as amended (30 FR 12319, 32 FR 14303 and 43 FR 46501), for minorities in the construction industry.

Department of Labor regulations (41 CFR 60–4.6) require the Director of the Office of Federal Contract Compliance Programs (OFCCP) to issue goals and timetables for minority and female utilization for Federal and federally assisted construction contractors and subcontractors. The regulations require that the goals be based on workforce, demographc or other relevant data.

The regulations also require that goals and timetables be published in the **Federal Register** as a notice of general information to the public but not for the public to comment. However, when 41 CFR Part 60–4 was promulgated (43 FR 14888) the preamble to the regulations stated that (*id.* at 14892):

> It is anticipated that within the very near future OFCCP will propose standards and goals for minority utilization pursuant to 41 CFR 60–4.6 * * *. Until those goals are published in final form the goals and timetables applicable under existing OFCCP requirements will continue to be effective.

Because these proposed goals are comprehensive and would for the first time cover the construction industry on a nation-wide basis, the Department of Labor is inviting comments, suggestions and recommendations from the public for a period of 60 days from publication or until Novembver 6, 1979. Comments should be addressed to Edward E. Mitchell, Director, Division of Program Policy, Room C–3324, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523–9426.

On April 7, 1978, a notice was published in the **Federal Register** (43 FR 14899) establishing goals and timetables under Executive Order 11246 for female utilization on construction projects. The goals for female utilization established in Appendix A of that notice would not be affected by this proposed notice. Appendix B of that notice adopted the goals for minority utilization existing on April 7, 1978 (i.e., the goals of the various Hometown Plans, Imposed Plans and Part II of the Federal EEO Bid Conditions still effective on April 7, 1978). The preamble to the regulations stated, however, that new standards and goals for minority utilization would be published "within the very near future" and that existing requirements were adopted on a temporary basis only until a uniform methodology for developing nationwide minority employment goals was established.

The Department of Labor is now proposing the new goals for minority utilization in the construction industry. Every effort has been made to construct goals on the basis of a rational, reliable, valid and uniform information base. These criteria are reflected most adequately in data compiled by the Bureau of the Census, U.S. Department of Commerce.

Because the Census Bureau information is collected decennially, these proposed goals are based on 1970 statistics. The advantages of the Census information, however, far outweigh the use of any available information which may have been collected more recently.

Additionally, it was determined that the geographical areas upon which the proposed goals are based must be accurate and reflect the criterion of "reasonable commuting distance" to the contractor's worksite. Consequently, two types of geographical areas have been utilized. First, goals are established for "Standard Metropolitan Statistical Areas" (SMSAs). These statistical areas (or geographical units) represent a reasoned judgment as to how metropolitan areas may be defined statistically in a uniform manner, using data items that are: (1) Widely recognized as indicative of metropolitan character (population, urban character, non-agricultural employment, population density, commuting ties) and (2) available from a body of Federal statistics which has been uniformly and simultaneously collected in all parts of the country, and processed and tabulated according to consistent standards. SMSAs are conceptually developed and defined by the Office of Management and Budget. Of particular relevance is the fact that the SMSAs are based on uniform and consistent data that identify commuting ties in certain areas. Thus, if a covered project is located within an SMSA, then it reasonably can be concluded that a reasonable commuting area exists within that SMSA and goals based on the SMSA are reasonable. Furthermore, the majority of the United States' population lives in the 660 counties contained in the SMSAs. (For a more complete discussion of the underlying concepts and derivations of SMSAs, see Standard Metropolitan Statistical Areas, Office of Management and Budget, 1975.)

A large number of construction projects, however, are located outside of SMSAs. The scope of the SMSA is the metropolitan areas, the therefore not all counties are included within an SMSA. To cover those geographical areas not located within an SMSA, a second geographical area referred to as "Economic Areas" (EAs) has been utilized. EAs were conceptually developed and defined by the Bureau of Economic Analysis in the U.S. Department of Commerce. These EAs have been established as centers of commerce and generally cover areas which include the places of work and residence for most workers. There are 183 such areas, defined along county lines, covering the entire country. Counties were assigned to economic centers in accordance with commuting patterns. These commuting patterns were based primarily on data gathered by the Bureau of the Census. (For a full explanation of the derivation of EAs see, "The BEA Economic Areas: Structual Changes and Growth 1950–73," *Survey of Current Business,* November 11, 1975.)

The Department also examined the possibility of using other geographical divisions as goal setting areas. Principally, the Department examined the Federal Wage Survey Areas as a possible geographical base for setting goals. These are contiguous areas which

cover the entire country and are based upon the commuting patterns of Federal employees. However, construction trades are not part of the survey and the areas reflect the commuting patterns of Federal employees who usually work at fixed locations. The two geographical units selected (SMSAs and EAs) provide a basis for covering the entire country, and are units for which statistical information has been routinely, uniformly and reliably collected at the same time.

Based on these considerations the department proposes that the basic geographical unit for establishing goals will be the SMSA and that the geographical unit for those areas located outside of the SMSAs will be the Economic Area. The goal established for minority utilization for each of these geographical units will be the minority work force percentage for each such unit.

The latest available nationwide labor force data are contained in the 1970 Census of Population. To prepare the proposed goals, OFCCP requested the Bureau of Census to make a tabulation of the 1970 Census data that would provide counts of minority and other persons in the experienced civilian labor force.

A single minority goal is proposed for each SAMSA and EA without a timetable. Timetables for the achievement of goals will not be provided because it is assumed that after 10 years of Executive Order and other equal employment opportunity efforts to increase the minority participation in the workforce, these levels should be at least at the 1970 minority workforce figures. These minority utilization goals were calculated using the 1970 census tabulation mentioned above, and would be set at the 1970 minority representation in the experienced civilian labor force.

Separate goals are established for each of the 285 SMSAs and for each of the 183 EAs. When a covered construction contract is for a project located in an SMSA, the goals for that SMSA apply. When a covered construction contract is located in an area outside of an SMSA, the EA goals for that area apply.

The proposed minority (male and female) goals would apply to Federal or federally assisted construction contractors or subcontractors who have covered contracts. The proposed goals are expressed as a percentage of the total hours worked by such a covered contractor's or subcontractor's entire on-site construction workforce which is working on any construction site within a relevant area. The goal applies to each construction craft and trade in the contractor's entire workforce in the relevant area notwithstanding that some employees are working on the Federal or federally assisted construction project and some are working on non-federally involved projects.

The applicable goals for the contractor would be the goals for the geographical area where the contract is being performed, and all the work of a Federal or federally assisted construction contractor or subcontractor is covered regardless of whether the work is being performed on a covered contract. Therefore, a contractor with a covered contract in SMSA X would apply the goals for SMSA X for that contract but also would apply the goals for SMSA Y for its contracts being performed in SMSA Y even though the contracts in SMSA Y were neither Federal nor federally assisted.

The proposed goals for minority utilization are based upon both male and female minority representation in the workforce, and are predicated upon the proposition that had it not been for the long-standing exclusion of minorities from the skilled construction crafts,[1] minorities would be represented in these crafts at least to the extent of their representation in the total workforce in a given geographical area. The proposed goals are affirmative action goals and are not intended to preclude the OFCCP from requiring higher goals or quotas of individual contractors or groups of contractors in specific cases to remedy the effects of their past discriminatory practices. Similarly, Administrative Law Judges and courts deciding equal employment opportunity cases would not be bound to follow these affirmative action goals when additional relief is necessary to correct discriminatory practices.

Finally, this proposed notice and appendix would not affect contractors who are participating under Hometown Plans approved by OFCCP with respect to contracts being performed in the geographical area covered by the Hometown Plan.

Each contracting agency, each applicant, and each contractor would be required to include the appropriate proposed goal set forth below in all invitations for bids or other solicitations for Federal or federally assisted construction contracts in excess of $10,000.

Accordingly, the Department of Labor proposes to supersede Appendix B of the Notice issued on April 7, 1978, (43 FR 14899) and corrected on May 5, 1978, (43 FR 19473) and Appendix B–1 of the notice issued on March 20, 1979, (44 FR 17116) which established goals for minority utilization in the construction industry. A new Appendix B–79 is proposed to be issued as set forth below.

Dated: August 30, 1979.

Ray Marshall,

Secretary of Labor.

Donald Elisburg,

Assistant Secretary, Employment Standards.

Weldon J. Rougeau,

Director, Office of Federal Contract Compliance Programs.

Appendix B–79

Until further notice, the following goals for minority utilization in each construction craft and trade shall be included in all Federal or federally assisted construction contracts and subcontracts in excess of $10,000 to be performed in the respective geographical areas. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or federally assisted construction contract or subcontract. A covered contractor or subcontractor shall apply the goals of the relevant area where the contract is being performed.

MAINE ECONOMIC AREA

001 Bangor, ME

	Proposed goal (percent)
Non-SMSA Counties	0.8
ME Aroostook	
ME Hancock	
ME Penobscot	
ME Piscataquis	
ME Waldo	
ME Washington	

002 Portland-Lewiston, MEQ03

SMSA	
4243 Lewiston-Auburn, ME	0.5
ME Androscoggin	
6403 Portland, ME	0.6
ME Cumberland	
ME Sagadahoc	
Non-SMSA counties	0.5
ME Franklin	
ME Kennebec	
ME Knox	
ME Lincoln	
ME Oxford	
ME Somerset	
ME York	

VERMONT ECONOMIC AREA

003 Burlington, VT

Non/SMSA counties	0.8
NH Coos	
NH Grafton	
NH Sullivan	
VT Addison	
VT Caledonia	
VT Chittenden	
VT Essex	
VT Franklin	
VT Grand Isle	
VT Lamoille	
VT Orange	
VT Orleans	
VT Rutland	
VT Washington	
VT Windsor	

MASSACHUSETTS ECONOMIC AREAS

004 Boston, MA

SMSA	
1123 Boston-Lowell-Brockton-Lawrence-Haverhill, MA–NH	4.0

[1] See *United Steelworkers of America* v. *Weber*, —— *U.S.* ——, *47 USLW 4851, 4852 (June 27, 1979).*

018 Philadelphia, PA

MA Essex
MA Middlesex
MA Norfolk
MA Plymouth
MA Suffolk
NH Rockingham
4763 Manchester-Nashua, NH 0.7
NH Hillsborough
5403 Fall River-New Bedford, MA 1.6
MA Bristol
9243 Worcester-Fitchburg-Leominster, MA 1.6
MA Worcester
Non-SMSA counties 3.6
MA Barnstable
MA Dukes
MA Nantucket
NH Belknap
NH Carroll
NH Merrimack
NH Strafford

RHODE ISLAND ECONOMIC AREA

005 Providence-Warwick-Pawtucket, RI

SMSA
6483 Providence-Warwick-Pawtucket, RI 3.0
RI Bristol
RI Kent
RI Providence
RI Washington
Non-SMSA counties 3.1
RI Newport

CONNECTICUT (Mass) ECONOMIC AREA

006 Hartford-New Haven-Springfield, CT-MA

SMSA
3283 Hartford-New Britain-Bristol, Ct 6.9
CT Hartford
CT Middlesex
CT Tolland
5483 New Haven-Waterbury-Meriden, CT 9.0
CT New Haven
5523 New London-Norwich, CT 4.5
CT New London
6323 Pittsfield, MA 1.6
MA Berkshire
8003 Springfield-Chicopee-Holyoke, MA-CT 4.8
MA Hampden
MA Hamphire
Non-SMSA counties 5.9
CT Litchfield
CT Windham
MA Franklin
NH Cheshire
VT Windham

NEW YORK ECONOMIC AREA

007 Albany-Schenectady-Troy, NY

SMSA
O160 Albany-Schenectady-Troy, NY 3.2
NY Albany
NY Montgomery
NY Rensselaer
NY Saratoga
NY Schenectady
Non-SMSA counties 2.6
NY Clinton
NY Columbia
NY Essex
NY Fulton
NY Greene
NY Hamilton
NY Schoharie
NY Warren
NY Washington
VT Bennington

008 Syracuse-Utica, NY

SMSA
8160 Syracuse, NY 3.8
NY Madison
NY Onondaga
NY Oswego
8680 Utica-Rome, NY 2.1
NY Herkimer
NY Oneida
Non-SMSA counties 2.5
NY Cayuga
NY Cortland
NY Franklin
NY Jefferson
NY Lewis
NY St. Lawrence

009 Rochester, NY

SSMA
6840 Rochester, NY 5.3
NY Livingston
NY Monroe
NY Ontario
NY Orleans
NY Wayne
Non-SMSA counties 5.9
NY Genesee
NY Seneca
NY Yates

010 Buffalo, NY

SMSA
1280 Buffalo, NY 7.7
NY Erie
NY Niagara
Non-SMSA counties 6.3
NY Allegany
NY Cattaraugus
NY Chautauqua
NY Wyoming
PA McKean
PA Potter

011 Bingharnton-Elmira, NY

SMSA
0960 Binghamton, NYY-PA 1.1
NY Broome
NY Tioga
PA Susquehanna
2335 Elmira, NY 2.2
NY Chemung
Non-SMSA counties 1.2
NY Chenango
NY Delaware
NY Otsego
NY Schuyler
NY Steuben
NY Tompkins
PA Bradford
PA Tioga

012 New York, NY

SMSA
1163 Bridgeport-Stamford-Norwalk-Danbury, CT ... 10.2
CT Fairfield
3640 Jersey City, NJ 12.8
NJ Hudson
4410 Long Branch-Asbury Park, NJ 9.5
NJ Monmouth
5380 Nassau-Suffolk, NY 5.8
NY Nassau
NY Suffolk
5460 New Brunswick-Perth Amboy-Sayreville, NJ. 5.8
NJ Middlesex
5600 New York, NY-NJ 22.6
NJ Bergen
NY Bronx
NY Kings
NY New York
NY Putnam
NY Queens
NY Richmond
NY Rockland
NY Westchester
5640 Newark, NJ 17.3
NJ Essex
NJ Morris
NJ Somerset
NJ Union
6040 Paterson-Clifton 12.9
NJ Passaic
NJ Passaic
6460 Poughkeepsie, NY 6.4
NY Dutchess
Non-SMSA counties 17.0
NJ Hunterdon
NJ Ocean
NJ Suessex
NY Orange
NY Sullivan
NY Ulster
PA Pike

PENNSYLVANIA ECONOMIC AREA

013 Scranton-Wilkes-Barre, PA

SMSA
5745 Northeast Pennsylvania 0.6
PA Lackawanna
PA Luzerne
PA Monroe
Non-SMSA counties 0.5
PA Columbia
PA Wayne
PA Wyoming

014 Williamsport, PA

SMSA
9140 Williamsport, PA 1.0
PA Lycoming
NON-SMSA counties 0.7
PA Cameron
PA Centre
PA Clearfield
PA Clinton
PA Elk
PA Jefferson
PA Montour
PA Northumberland
PA Snyder
PA Sullivan
PA Union

015 Erie, PA

SMSA
2360 Erie, PA 2.8
PA Erie
Non-SMSA counties 1.8
PA Clarion
PA Crawford
PA Forest
PA Venango
PA Warren

016 Pittsburgh, PA

SMSA
0280 Altoona, PA 1.0
PA Blair
3680 Johnstown, PA 1.3
PA Cambria
PA Somerset
6280 Pittsburgh, PA 6.3
PA Allegheny
PA Beaver
PA Washington
PA Westmoreland
Non-SMSA counties 4.8
MD Allegany
MD Garrett
PA Armstrong
PA Bedford
PA Butler
PA Fayette
PA Greene
PA Indiana
WV Mineral

017 Harrisburg-York-Lancaster, PA

SMSA
3240 Harrisburg, PA 6.2
PA Cumberland
PA Dauphin
PA Perry
4000 Lancaster, PA 2.0
PA Lancaster
9280 York, PA 2.2
PA Adams
PA York
Non-SMSA counties 3.1
PA Franklin
PA Fulton
PA Huntingdon
PA Juniata
PA Lebanon
PA Mifflin

018 Philadelphia, PA

SMSA
0240 Allentown-Bethlehem-Easton, PA-NJ 1.6
NJ Warren
PA Carbon
PA Lehigh
PA Northhampton
0560 Atlantic City, NJ 18.2
PNJ Atlantic
6160 Philadelphia, PA-NJ 17.3
NJ Burlington
NJ Camden
NJ Gloucester
PA Bucks
PA Chester
PA Delaware
PA Montgomery
PA Philadelphia
6680 Reading, PA 2.5
PA Berks
8480 Trenton, NJ 16.4
NJ Mercer
8760 Vineland-Millville-Bridgeton, NJ 16.0
NJ Cumberland
9160 Wilmington, DE-NJ-MD 12.3
DE New Castle
MD Cecil
NJ Salem
Non-SMSA counties 14.5
DE Kent
DE Sussex

018 Philadelphia, PA

NJ Cape May
PA Schuylkill

MARYLAND ECONOMIC AREA

019 Baltimore, MD

SMSA
0720 Baltimore, MD 23.0
MD Anne Arundel
MD Baltimore
MD Carroll
MD Harford
MD Howard
MD Baltimore City
Non-SMSA counties 23.6
MD Caroline
MD Dorchester
MD Kent
MD Queen Annes
MD Somerset
MD Talbot
MD Wicomico
MD Worcester
VA Accomack
VA Northampton

WASHINGTON, DC ECONOMIC AREA

020 Washington, DC

SMSA
8840 Washington, DC–MD–VA 28.0
DC District of Columbia
MD Charles
MD Montgomery
MD Prince Georges
VA Arlington
VA Fairfax
VA Loudoun
VA Prince William
VA Alexandria
VA Fairfax City
VA Falls Church
Non-SMSA counties 25.2
MD Calvert
MD Frederick
MD St. Marys
MD Washington
VA Clarke
VA Culpeper
VA Fauquier
VA Frederick
VA King George
VA Page
VA Rappahannock
VA Shenandoah
VA Spotsylvania
VA Stafford
VA Warren
VA Westmoreland
VA Fredericksburg
VA Winchester
WV Berkeley
WV Grant
WV Hampshire
WV Hardy
WV Jefferson
WV Morgan

VIRGINIA ECONOMIC AREA

021 Roanoke-Lynchburg, VA

SMSA
4640 Lynchburg, VA 19.3
VA Amherst
VA Appomattox
VA Campbell
VA Lynchburg
6800 Roanoke, VA 10.2
VA Botetourt
VA Craig
VA Roanoke
VA Roanoke City
VA Salem
Non-SMSA counties 12.0
VA Alleghany
VA Augusta
VA Bath
VA Bedford
VA Bland
VA Carroll
VA Floyd
VA Franklin
VA Giles
VA Grayson
VA Henry
VA Highland
VA Montgomery
VA Nelson
VA Patrick

VIRGINIA ECONOMIC AREA

021 Roanoke-Lynchburg, VA

VA Pittsylvania
VA Pulaski
VA Rockbridge
VA Rockingham
VA Wythe
VA Bedford City
VA Buena Vista
VA Clifton Forge
VA Covington
VA Danville
VA Galax
VA Harrisonburg
VA Lexington
VA Martinsville
VA Radford
VA Staunton
VA Waynesboro
WV Pendleton

022 Richmond, VA

SMSA
6140 Petersburg-Colonial Heights-Hopewell, VA ... 30.6
VA Dinwiddie
VA Prince George
VA Colonial Heights
VA Hopewell
VA Petersburg
6760 Richmond, VA 24.9
VA Charles City
VA Chesterfield
VA Goochland
VA Hanover
VA Henrico
VA New Kent
VA Powhatan
VA Richmond
Non-SMSA counties 27.9
VA Albemarle
VA Amelia
VA Brunswick
VA Buckingham
VA Caroline
VA Charlotte
VA Cumberland
VA Essex
VA Fluvanna
VA Greene
VA Greensville
VA Halifax
VA King and Queen
VA King William
VA Lancaster
VA Louisa
VA Lunenberg
VA Madison
VA Mecklenburg
VA Northumberland
VA Nottoway
VA Orange
VA Prince Edward
VA Richmond
VA Sussex
VA Charlottesville
VA Emporia
VA South Boston

023 Norfolk-Virginia Beach-Newport News, VA

SMSA
5680 Newport News-Hampton, VA 27.1
VA Gloucester
VA James City
VA York
VA Hampton
VA Newport News
VA Williamsburg
5720 Norfork-Virginia Beach-Portsmouth, VA–NC. 26.6
NC Currituck
VA Chesapeake
VA Norfolk
VA Portsmouth
VA Suffolk
VA Virginia Beach
Non-SMSA counties 29.7
NC Bertie
NC Camden
NC Chowan
NC Gates
NC Hertford
NC Pasquotank
NC Perquimans
VA Isle of Wight
VA Mathews
VA Middlesex
VA Southampton
VA Surry
VA Franklin

NORTH CAROLINA ECONOMIC AREA

024 Rocky Mount-Wilson-Greenville, NC

Non-SMSA 31.7
NC Beaufort
NC Carteret
NC Craven
NC Dare
NC Edgecombe
NC Greene
NC Halifax
NC Hyde
NC Jones
NC Lenoir
NC Martin
NC Nash
NC Northampton
NC Pamlico
NC Pitt
NC Tyrrell
NC Washington
NC Wayne
NC Wilson

025 Wilmington, NC

SMSA
9200 Wilmington, NC 20.7
NC Brunswick
NC New Hanover
Non-SMSA counties 23.5
NC Columbus
NC Duplin
NC Onslow
NC Pender

026 Fayetteville, NC

SMSA
2560 Fayetteville, NC 26.2
NC Cumberland
Non-SMSA counties 33.5
NC Bladen
NC Hoke
NC Richmond
NC Robeson
NC Sampson
NC Scotland

027 Raleigh-Durham, NC

6640 Raleigh-Durham, NC 22.8
NC Durham
NC Orange
NC Wake
Non-SMSA counties 24.7
NC Chatham
NC Franklin
NC Granville
NC Harnett
NC Johnston
NC Lee
NC Person
NC Vance
NC Warren

028 Greensboro-Winston Salem-High Point, NC

SMSA
1300 Burlington, NC 16.2
NC Alamance
3120 Greensboro–Winston-Salem–High Point, NC .. 16.4
NC Davidson
NC Forsyth
NC Guilford
NC Randolph
NC Stokes
NC Yadkin
Non-SMSA counties 15.5
NC Alleghany
NC Ashe
NC Caswell
NC Davie
NC Montgomery
NC Moore
NC Rockingham
NC Surry
NC Watauga
NC Wilkes

029 Charlotte, NC

1520 Charlotte-Gastonia, NC 18.5
NC Gaston
NC Mecklenburg
NC Union
Non-SMSA counties 15.7
NC Alexander
NC Anson
NC Burke
NC Cabarrus
NC Caldwell
NC Catawba

FLORIDA ECONOMIC AREA

041 Jacksonville, FL

NC Cleveland
NC Iredell
NC Lincoln
NC Rowan
NC Rutherford
NC Stanly
SC Chester
SC Lancaster
SC York

030 Asheville, NC

SMSA	
0480 Asheville, NC	8.5
NC Buncombe	
NC Madison	
Non-SMSA counties	6.3
NC Avery	
NC Cherokee	
NC Clay	
NC Graham	
NC Haywood	
NC Henderson	
NC Jackson	
NC McDowell	
NC Macon	
NC Mitchell	
NC Swain	
NC Transylvania	
NC Yancey	

SOUTH CAROLINA ECONOMIC AREA

031 Greenville-Spartanburg, SC

SMSA	
3160 Greenville-Spartanburg, SC	16.0
SC Greenville	
SC Pickens	
SC Spartanburg	
Non-SMSA counties	17.8
SC Polk	
SC Abbeville	
SC Anderson	
SC Cherokee	
SC Greenwood	
SC Laurens	
SC Oconee	
SC Union	

032 Columbia, SC

SMSA	
1760 Columbia, SC	23.4
SC Lexington	
SC Richland	
Non-SMSA counties	32.0
SC Calhoun	
SC Clarendon	
SC Fairfield	
SC Kershaw	
SC Lee	
SC Newberry	
SC Orangeburg	
SC Saluda	
SC Sumter	

033 Florence, SC

Non-SMSA counties	33.0
SC Chesterfield	
SC Darlington	
SC Dillon	
SC Florence	
SC Georgetown	
SC Horry	
SC Marion	
SC Marlboro	
SC Williamsburg	

034 Charleston-North Charleston, SC

SMSA	
1440 Charleston-North Charleston, SC	30.0
SC Berkeley	
SC Charleston	
SC Dorchester	
Non-SMSA counties	30.7
SC Colleton	

GEORGIA ECONOMIC AREA

035 Augusta, GA

SMSA	
0600 Augusta, GA-SC	27.2
GA Columbia	
GA Richmond	
SC Aiken	
Non-SMSA counties	32.6
GA Burke	
GA Emanuel	
GA Glascock	
GA Jefferson	
GA Jenkins	

GEORGIA ECONOMIC AREA

035 Augusta, GA

GA Lincoln
GA McDuffie
GA Taliaferro
GA Warren
GA Wilkes
SC Allendale
SC Bamberg
SC Barnwell
SC Edgefield
SC McCormick

036 Atlanta, GA

SMSA	
0520 Atlanta, GA	21.2
GA Butts	
GA Cherokee	
GA Clayton	
GA Cobb	
GA Dekalb	
GA Douglas	
GA Fayette	
GA Forsyth	
GA Fulton	
GA Gwinett	
GA Henry	
GA Newton	
GA Paulding	
GA Rockdale	
GA Walton	
Non-SMSA counties	19.5
GA Banks	
GA Barrow	
GA Bartow	
GA Carroll	
GA Clarke	
GA Coweta	
GA Dawson	
GA Elbert	
GA Fannin	
GA Floyd	
GA Franklin	
GA Gilmer	
GA Gordon	
GA Greene	
GA Habersham	
GA Hall	
GA Haralson	
GA Hart	
GA Heard	
GA Jackson	
GA Jasper	
GA Lamar	
GA Lumpkin	
GA Madison	
GA Morgan	
GA Oconee	
GA Oglethorpe	
GA Pickens	
GA Pike	
GA Polk	
GA Rabun	
GA Spalding	
GA Stephens	
GA Towns	
GA Union	
GA Upson	
GA White	

037 Columbus, GA

SMSA	
1800 Columbus, GA-AL	29.6
AL Russell	
GA Chattahoochee	
GA Columbus	
Non-SMSA counties	31.6
AL Chambers	
AL Lee	
GA Harris	
GA Marion	
GA Meriwether	
GA Quitman	
GA Schley	
GA Stewart	
GA Sumter	
GA Talbot	
GA Troup	
GA Webster	

038 Macon, GA

SMSA	
4680 Macon, GA	27.5
GA Bibb	
GA Houston	
GA Jones	
GA Twiggs	

038 Macon, GA

Non-SMSA counties	31.7
GA Baldwin	
GA Bleckley	
GA Crawford	
GA Crisp	
GA Dodge	
GA Dooly	
GA Hancock	
GA Johnson	
GA Laurens	
GA Macon	
GA Monroe	
GA Peach	
GA Pulaski	
GA Putnam	
GA Taylor	
GA Telfair	
GA Treutlen	
GA Washington	
GA Wheeler	
GA Wilcox	
GA Wilkinson	

039 Savannah, GA

SMSA	
7520 Savannah, GA	30.6
GA Bryan	
GA Chatham	
GA Effingham	
Non-SMSA counties	29.8
GA Appling	
GA Atkinson	
GA Bacon	
GA Bulloch	
GA Candler	
GA Coffee	
GA Evans	
GA Jeff Davis	
GA Liberty	
GA Long	
GA Mcintosh	
GA Montgomery	
GA Screven	
GA Tattnall	
GA Toombs	
GA Wayne	
SC Beaufort	
SC Hampton	
SC Jasper	

040 Albany, GA

SMSA	
0120 Albany, GA	32.1
GA Dougherty	
GA Lee	
Non-SMSA counties	31.1
GA Baker	
GA Ben Hill	
GA Berrien	
GA Brooks	
GA Calhoun	
GA Clay	
GA Clinch	
GA Colquitt	
GA Cook	
GA Decatur	
GA Early	
GA Echols	
GA Grady	
GA Irwin	
GA Lanier	
GA Lowndes	
GA Miller	
GA Mitchell	
GA Randolph	
GA Seminole	
GA Terrell	
GA Thomas	
GA Tift	
GA Turner	
GA Worth	

FLORIDA ECONOMIC AREA

041 Jacksonville, FL

SMSA	
2900 Gainesville, FL	20.6
FL Alachua	
3600 Jacksonville, FL	21.8
FL Baker	
FL Clay	
FL Duval	
FL Nassau	
FL St. Johns	
Non-SMSA counties	22.2
FL Bradford	
FL Columbia	

FLORIDA ECONOMIC AREA

041 Jacksonville, FL

FL Dixie
FL Gilchrist
FL Hamilton
FL LaFayette
FL Levy
FL Marion
FL Putnam
FL Suwannee
FL Union
GA Brantley
GA Camden
GA Charlton
GA Glynn
GA Pierce
GA Ware

042 Orlando-Melbourne-Daytona Beach, FL

SMSA	
2020 Daytona Beach, FL	15.7
FL Volusia	
4900 Melbourne-Titusville-Coca, FL	10.7
FL Brevard	
5960 Orlando, FL	15.5
FL Orange	
FL Osceola	
FL Seminole	
Non-SMSA counties	14.9
FL Flagler	
FL Lake	
FL Sumter	

043 Miami-Fort Lauderdale, FL

SMSA	
2680 Fort Lauderdale-Hollywood, FL	15.5
FL Broward	
5000 Miami, FL	39.5
FL Dade	
8960 West Palm Beach-Boca Raton, FL	22.4
FL Palm Beach	
Non-SMSA counties	30.4
FL Glades	
FL Hendry	
FL Indian River	
FL Martin	
FL Monroe	
FL Okeechobee	
FL St. Lucie	

044 Tampa-St. Petersburg, FL

SMSA	
1140 Bradenton, FL	15.9
FL Manatee	
2700 Fort Myers, FL	15.3
FL Lee	
3980 Lakeland-Winter Haven, FL	18.0
FL Polk	
7510 Sarasota, FL	10.5
FL Sarasota	
8280 Tampa-St. Petersburg, FL	17.9
FL Hillsborough	
FL Pasco	
FL Pinellas	
Non-SMSA counties	17.1
FL Charlotte	
FL Citrus	
FL Collier	
FL Desoto	
FL Hardee	
FL Hernando	
FL Highlands	

045 Tallahassee, FL

SMSA	
8240 Tallahassee, FL	24.3
FL Leon	
FL Wakulla	
Non-SMSA counties	29.5
FL Calhoun	
FL Franklin	
FL Gadsden	
FL Jackson	
FL Jefferson	
FL Liberty	
FL Madison	
FL Taylor	

046 Pensacola-Panama City, FL

SMSA	
6015 Panama City, FL	14.1
FL Bay	
6080 Pensacola, FL	18.3
FL Escambia	
FL Santa Rosa	
Non-SMSA counties	15.4
FL Gulf	
FL Holmes	

046 Pensacola-Panama City, FL

FL Okaloosa
FL Walton
FL Washington

ALABAMA ECONOMIC AREA

047 Mobile, AL

SMSA	
5160 Mobile, AL	25.9
AL Baldwin	
AL Mobile	
6025 Pascagoula-Moss Point, MS	16.9
MS Jackson	
Non-SMSA counties	26.4
AL Choctaw	
AL Clarke	
AL Conecuh	
AL Escambia	
AL Marengo	
AL Monroe	
AL Washington	
AL Wilcox	
MS George	
MS Greene	

048 Montgomery, AL

SMSA	
5240 Montgomery, AL	29.9
AL Autauga	
AL Elmore	
AL Montgomery	
Non-SMSA counties	29.9
AL Barbour	
AL Bullock	
AL Butler	
AL Coffee	
AL Coosa	
AL Covington	
AL Crenshaw	
AL Dale	
AL Dallas	
AL Geneva	
AL Henry	
AL Houston	
AL Lowndes	
AL Macon	
AL Perry	
AL Pike	
AL Tallapoosa	

049 Birmingham, AL

SMSA	
0450 Anniston, AL	14.3
AL Calhoun	
1000 Birmingham, AL	24.9
AL Jefferson	
AL St. Clair	
AL Shelby	
AL Walker	
AL Etowah	
8600 Tuscaloosa, AL	20.6
AL Tuscaloosa	
Non-SMSA counties	20.7
AL Bibb	
AL Blount	
AL Cherokee	
AL Chilton	
AL Clay	
AL Cleburne	
AL Cullman	
AL Fayette	
AL Greene	
AL Hale	
AL Lamar	
AL Marion	
AL Pickens	
AL Randolph	
AL Sumter	
AL Talladega	
AL Winston	

050 Huntsville-Florence, AL

SMSA	
2650 Florence, AL	11.9
AL Colbert	
AL Lauderdale	
3440 Huntsville, AL	12.0
AL Limestone	
AL Madison	
AL Marshall	
Non-SMSA counties	11.2
AL Franklin	
AL Lawrence	
AL Morgan	
TN Lincoln	

TENNESSEE ECONOMIC AREA

051 Chattanooga, TN

SMSA	
1560 Chattanooga, TN-GA	12.5
GA Catoosa	
GA Dade	
GA Walker	
TN Hamilton	
TN Marion	
TN Sequatchie	
Non-SMSA counties	8.6
AL De Kalb	
AL Jackson	
GA Chattooga	
GA Murray	
GA Whitfield	
TN Bledsoe	
TN Bradley	
TN Grundy	
TN McMinn	
TN Meigs	
TN Monroe	
TN Polk	
TN Rhea	

052 Johnson City-Kingsport-Bristol, TN-VA

SMSA	
3660 Johnson City-Kingsport-Bristol, TN-VA	2.6
TN Carter	
TN Hawkins	
TN Sullivan	
TN Unicoi	
TN Washington	
VA Scott	
VA Washington	
VA Bristol	
Non-SMSA counties	3.2
TN Greene	
TN Hancock	
TN Johnson	
VA Buchanan	
VA Dickenson	
VA Lee	
VA Russell	
VA Smyth	
VA Tazewell	
VA Wise	
VA Norton	
WV McDowell	
WV Mercer	

053 Knoxville, TN

SMSA	
3840 Knoxville, TN	6.6
TN Anderson	
TN Blount	
TN Knox	
TN Union	
Non-SMSA counties	4.5
KY Bell	
KY Harlan	
KY Knox	
KY Laurel	
KY McCreary	
KY Wayne	
KY Whitley	
TN Campbell	
TN Claiborne	
TN Cocke	
TN Cumberland	
TN Fentress	
TN Grainger	
TN Hamblen	
TN Jefferson	
TN Loudon	
TN Morgan	
TN Roane	
TN Scott	
TN Sevier	

054 Nashville, Tn

SMSA	
1660 Clarksville-Hopkinsville, TN-KY	18.2
KY Christian	
TN Montgomery	
5360 Nashville-Davidson, TN	15.8
TN Cheatham	
TN Davidson	
TN Dickson	
TN Robertson	
TN Rutherford	
TN Sumner	
TN Williamson	
TN Wilson	
Non-SMSA counties	12.0
KY Allen	
KY Barren	

054 Nashville, Tn

KY Butler
KY Clinton
KY Cumberland
KY Edmonson
KY Logan
KY Metcalfe
KY Monroe
KY Simpson
KY Todd
KY Trigg
KY Warren
TN Bedford
TN Cannon
TN Clay
TN Coffee
TN De Kalb
TN Franklin
TN Giles
TN Hickman
TN Houston
TN Humphreys
TN Jackson
TN Lawrence
TN Lewis
TN Macon
TN Marshall
TN Maury
TN Moore
TN Overton
TN Perry
TN Pickett
TN Putnam
TN Smith
TN Stewart
TN Trousdale
TN Van Buren
TN Warren
TN Wayne
TN White

055 Memphis, TN

SMSA
4920 Memphis, TN–AR–MS 32.3
AR Crittenden
MS De Soto
TN Shelby
TN Tipton
Non-SMSA counties 26.5
AR Clay
AR Craighead
AR Cross
AR Greene
AR Lawrence
AR Lee
AR Mississippi
AR Phillips
AR Poinsett
AR Randolph
AR St. Francis
MS Alcorn
MS Benton
MS Bolivar
MS Calhoun
MS Carroll
MS Chickasaw
MS Clay
MS Coahoma
MS Grenada
MS Itawamba
MS Lafayette
MS Lee
MS Leflore
MS Marshall
MS Monroe
MS Montgomery
MS Panola
MS Pontotoc
MS Prentiss
MS Quitman
MS Sunflower
MS Tallahatchie
MS Tate
MS Tippah
MS Tunica
MS Union
MS Washington
MS Webster
MS Yalobusha
MO Dunklin
MO New Madrid
NO Pemiscot
TN Benton
TN Carroll
TN Chester
TN Crockett
TN Decatur
TN Dyer

055 Memphis, TN

TN Fayette
TN Gibson
TN Hardeman
TN Hardin
TN Haydood
TN Henderson
TN Henry
TN Lake
TN Lauderdale
TN McNairy
TN Madison
TN Obion
TN Weakley

KENTUCKY ECONOMIC AREA

056 Paducah, KY

Non-SMSA counties 5.2
IL Hardin
IL Massac
IL Pope
KY Ballard
KY Caldwell
KY Calloway
KY Carlisle
KY Crittenden
KY Fulton
KY Graves
KY Hickman
KY Livingston
KY Lyon
KY McCracken
KY Marshall

057 Louisville, KY

SMSA
4520 Louisville, KY–IN 11.2
IN Clark
IN Floyd
KY Bullitt
KY Jefferson
KY Oldham
Non-SMSA counties 9.6
IN Crawford
IN Harrison
IN Jefferson
IN Orange
IN Scott
IN Washington
KY Breckinridge
KY Grayson
KY Hardin
KY Hart
KY Henry
KY Larue
KY Marion
KY Meade
KY Nelson
KY Shelby
KY Spencer
KY Trimble
KY Washington

58 Lexington, KY

SMSA
4280 Lexington-Fayette, KY 10.8
KY Bourbon
KY Clark
KY Fayette
KY Jessamine
KY Scott
KY Woodford
Non-SMSA counties 7.0
KY Adair
KY Anderson
KY Bath
KY Boyle
KY Breathitt
KY Casey
KY Clay
KY Estill
KY Franklin
KY Garrard
KY Green
KY Harrison
KY Jackson
KY Knott
KY Lee
KY Leslie
KY Letcher
KY Lincoln
KY Madison
KY Magoffin
KY Menifee
KY Mercer
KY Montgomery
KY Morgan

58 Lexington, KY

KY Nicholas
KY Owsley
KY Perry
KY Powell
KY Pulaski
KY Rockcastle
KY Russell
KY Taylor
KY Wolfe

WEST VIRGINIA ECONOMIC AREA

059 Huntington, WV

SMSA
3400 Huntington-Ashland, WV–KY–OH 2.9
KY Boyd
KY Greenup
OH Lawrence
WV Cabell
WV Wayne
Non-SMSA counties 2.5
KY Carter
KY Elliott
KY Floyd
KY Johnson
KY Lawrence
KY Martin
KY Pike
KY Rowan
OH Gallia
WV Lincoln
WV Logan
WV Mason
WV Mingo

060 Charleston

SMSA
1480 Charleston, WV 4.9
WV Kanawaha
WV Putnam
Non-SMSA counties 4.2
WV Boone
WV Braxton
WV Calhoun
WV Clay
WV Fayette
WV Gilmer
WV Greenbrier
WV Jackson
WV Monroe
WV Nicholas
WV Pocahontas
WV Raleigh
WV Roane
WV Summers
WV Webster
WV Wyoming

061 Morgantown-Fairmont, WV

Non-SMSA counties 2.1
WV Barbour
WV Doddridge
WV Harrison
WV Lewis
WV Marion
WV Monogalia
WV Preston
WV Randolph
WV Taylor
WV Tucker
WV Upshur

062 Parkersburg, WV

SMSA
6020 Parkersburg-Marietta, WV–OH 1.1
OH Washington
WV Wirt
WV Wood
Non-SMSA counties 1.2
WV Pleasants
WV Ritchie

063 Wheeling-Steubenville-Wierton, WV–OH

SMSA
8080 Steubenville-Wierton, OH–WV 4.3
OH Jefferson
WV Brooke
WV Hancock
9000 Wheeling, WV–OH 2.4
OH Belmont
WV Marshall
WV Ohio
Non-SMSA counties 3.0
OH Harrison
OH Monroe
WBV Tyler
WV Wetzel

OHIO ECONOMIC AREA

064 Youngstown-Warren, OH

SMSA
9320 Youngstown-Warren, OH 9.4
OH Mahoning
OH Trumbull
non-SMSA counties 6.7
OH Columbiana
PA Lawrence
PA Mercer

065 Cleveland, OH

SMSA
0080 Akron, OH 7.8
OH Portage
OH Summit
1320 Canton, OH 6.1
OH Carroll
OH Stark
1680 Cleveland, OH 16.1
OH Cuyahoga
OH Geauga
OH Lake
OH Medina
4440 Lorain-Elyria, OH 9.3
OH Lorain
4800 Mansfield, OH 6.3
OH Richland
Non-SMSA counties 11.3
OH Ashland
OH Ashtabula
OH Coshocton
OH Crawford
OH Erie
OH Holmes
OH Huron
OH Tuscaraswas
OH Wayne

066 Columbus, OH

SMSA
1840 Columbus, OH 10.6
OH Delaware
OH Fairfield
OH Franklin
OH Madison
OH Pickaway
Non-SMSA Counties 7.3
OH Athens
OH Fayette
OH Guernsey
OH Hocking
OH Jackson
OH Knox
OH Licking
OH Marion
OH Meigs
OH Morgan
OH Morrow
OH Muskingum
OH Noble
OH Perry
OH Pike
OH Ross
OH Scioto
OH Union
OH Vinton

067 Cincinnati, OH

SMSA
1640 Cincinnati, OH-KY-IN 11.0
IN Dearborn
KY Boone
KY Campbell
KY Kenton
OH Clermont
OH Hamilton
OH Warren
3200 Hamilton-Middletown, OH 5.0
OH Butler
Non-SMSA counties 9.2
IN Franklin
IN Ohio
IN Ripley
IN Switzerland
KY Bracken
KY Carroll
KY Fleming
KY Gallatin
KY Grant
KY Lewis
KY Mason
KY Owen
KY Pendleton
KY Robertson
OH Adams
OH Brown

067 Cincinnati, OH

OH Clinton
OH Highland

068 Dayton, OH

SMSA
2000 Dayton, OH 11.5
OH Greene
OH Miami
OH Montgomery
OH Preble
7960 Springfield, OH 7.8
OH Champaign
OH Clark
Non-SMSA counties 9.9
OH Darke
OH Logan
OH Shelby

069 Lima, OH

SMSA
4320 Lima, OH 4.4
OH Allen
OH Auglaize
OH Putnam
OH Van Wert
Non-SMSA Counties 3.5
OH Hardin
OH Mercer

070 Toledo, OH

SMSA
8400 Toledo, OH-MI 8.8
MI Monroe
OH Fulton
OH Lucas
OH Ottawa
OH Wood
Non-SMSA Counties 7.3
MI Lenawee
OH Hancock
OH Henry
OH Sandusky
OH Seneca
OH Wyandot

MICHIGAN ECONOMIC AREA

071 Detroit, MI

SMSA
0440 Ann Arbor, MI 8.5
MI Washtenaw
2160 Detroit, MI 17.7
MI Lapeer
MI Livingston
MI Macomb
MI Oakland
MI St. Clair
MI Wayne
2640 Flint, MI 12.6
MI Genesee
MI Shiawassee
Non-SMSA counties 16.7
MI Sanilac

072 Saginaw, MI

SMSA
0800 Bay City, MI 2.2
MI Bay
6960 Saginaw, MI 14.3
MI Saginaw
Non-SMSA counties 5.2
MI Alcona
MI Alpena
MI Arenac
MI Cheboygan
MI Chippewa
MI Clare
MI Crawford
MI Gladwin
MI Gratiot
MI Huron
MI Iosco
MI Isabella
MI Luce
MI Mackinac
MI Midland
MI Montmorency
MI Ogemaw
MI Oscoda
MI Otsego
MI Presque Isle
MI Roscommon
MI Tuscola

073 Grand Rapids, MI

SMSA
3000 Grand Rapids, MI 5.2
MI Kent

073 Grand Rapids, MI

MI Ottawa
5320 Muskegon-Norton Shores-Muskegon Heights, MI 9.7
MI Muskegon
MI Oceana
Non-SMSA counties 4.9
MI Allegan
MI Antrim
MI Benzie
MI Charlevoix
MI Emmet
MI Grand Traverse
MI Kalkaska
MI Lake
MI Leelanau
MI Manistee
MI Mason
MI Mecosta
MI Missaukee
MI Montcalm
MI Newaygo
MI Osceola
MI Wexford

074 Lansing-Kalamazoo, MI

SMSA
0780 Battle Creek, MI 7.2
MI Barry
MI Calhoun
3520 Jackson, MI 5.1
MI Jackson
3720 Kalamazoo-Portage, MI 5.9
MI Kalamazoo
MI Van Buren
4040 Lansing-East Lansing, MI 5.5
MI Clinton
MI Eaton
MI Ingham
MI Ionia
Non-SMSA counties 5.5
MI Branch
MI Hillsdale

INDIANA ECONOMIC AREA

075 South Bend, IN

SMSA
7800 South Bend, IN 7.1
IN Marshall
IN St. Joseph
2330 Elkhart, IN 4.0
IN Elkhart
Non-SMSA counties 6.2
IN Fulton
IN Kosciusko
IN Lagrange
MI Berrien
MI Cass
MI St. Joseph

076 Fort Wayne, IN

Non-SMSA counties 4.4
IN Allen
IN Dekalb
IN Wells
IN Huntington
IN Noble
IN Steuben
IN Whitley
OH Defiance
OH Paulding
OH Williams

077 Kokomo-Marion, IN

SMSA
3850 Kokomo, IN 4.4
IN Howard
IN Tipton
Non-SMSA counties 3.7
IN Cass
IN Grant
IN Miami
IN Wabash

078 Anderson-Muncie, IN

SMSA
0400 Anderson, IN 4.9
IN Madison
5280 Muncie, IN 5.3
IN Delaware
Non-SMSA counties 3.9
IN Blackford
IN Fayette
IN Henry
IN Jay
IN Randolph
IN Union
IN Wayne

079 Indianapolis, IN

SMSA
1020 Bloomington, IN 3.1
IN Monroe
3480 Indianapolis, IN 12.5
IN Boone
IN Hamilton
IN Hendricks
IN Johnson
IN Marion
IN Morgan
IN Shelby
Non-SMSA counties 9.7
IN Bartholomew
IN Brown
IN Daviess
IN Decatur
IN Greene
IN Jackson
IN Jennings
IN Lawrence
IN Martin
IN Owen
IN Putnam
IN Rush

080 Evansville, IN

SMSA
2440 Evansville, IN–KY 4.8
IN Gibson
IN Posey
IN Vanderburgh
IN Warrick
KY Henderson
5990 Owensboro, KY 4.7
KY Daviess
Non-SMSA counties 3.5
IL Edwards
IL Gallatin
IL Hamilton
IL Lawrence
IL Saline
IL Wabash
IL White
IN Dubois
IN Knox
IN Perry
IN Pike
IN Spencer
KY Hancock
KY Hopkins
KY McLean
KY Muhlenberg
KY Ohio
KY Union
KY Webster

081 Terre Haute, IN

SMSA
8320 Terre Haute, IN 3.1
IN Clay
IN Sullivan
IN Vermillion
IN Vigo
Non-SMSA counties 2.5
IL Clark
IL Crawford
IL Parke

082 Lafayette, IN

SMSA
3920 Lafayette-West Lafayette, IN 2.7
IN Tippecanoe
Non-SMSA counties 1.5
IN Benton
IN Carroll
IN Clinton
IN Fountain
IN Montgomery
IN Warren
IN White

ILLINOIS ECONOMIC AREA

083 Chicago, IL

SMSA
1600 Chicago, IL 19.6
IL Cook
IL Du Page
IL Kane
IL Lake
IL McHenry
IL Will
2960 Gary-Hammond-East Chicago, IN 20.9
IN Lake
IN Porter
3740 Kankakee, IL 9.1
IL Kankakee
3800 Kenosha, WI 3.0

ILLINOIS ECONOMIC AREA

083 Chicago, IL

WI Kenosha
Non-SMSA counties 18.4
IL Bureau
IL De Kalb
IL Grundy
IL Iroquois
IL Kendall
IL La Salle
IL Livingston
IL Putnam
IL Jasper
IL Laporte
IN Newton
IN Pulaski
IN Starke

084 Champaign-Urbana, IL

SMSA
1400 Champaign-Urbana-Rantoul, IL 7.8
IL Champaign
Non-SMSA counties 4.8
IL Coles
IL Cumberland
IL Douglas
IL Edgar
IL Ford
IL Piatt
IL Vermilion

085 Springfield-Decatur, IL

SMSA
2040 Decatur, IL 7.6
IL Macon
7880 Springfield, IL 4.5
IL Menard
IL Sangamon
Non-SMSA counties 4.0
IL Cass
IL Christian
IL De Witt
IL Logan
IL Morgan
IL Moultrie
IL Scott
IL Shelby

086 Quincy, IL

Non-SMSA counties 3.1
IL Adams
IL Brown
IL Pike
MO Lewis
MO Marion
MO Pike
MO Ralls

087 Peoria, IL

SMSA
1040 Bloomington-Normal, IL 2.5
IL McLean
6120 Peoria, IL 4.4
IL Peoria
IL Tazewell
IL Woodford
Non-SMSA counties 3.3
IL Fulton
IL Knox
IL McDonough
IL Marshall
IL Mason
IL Schuyler
IL Stark
IL Warren

088 Rockford, IL

SMSA
6880 Rockford, IL 6.3
IL Boone
IL Winnegago
3620 Janesville-Beloit, WI 3.1
Rock Co.
Non-SMSA counties 4.6
IL Lee
IL Ogle
IL Stephenson

WISCONSIN ECONOMIC AREA

089 Milwaukee, WI

SMSA
5080 Milwaukee, WI 6.0
WI Milwaukee
WI Ozaukee
WI Washington
WI Waukesha
6600 Racine, WI 8.4

WISCONSIN ECONOMIC AREA

089 Milwaukee, WI

WI Racine
Non-SMSA counties 7.0
WI Dodge
WI Jefferson
WI Sheyboygan
WI Walworth

090 Madison, WI

SMSA
4720 Madison, WI 2.2
WI Dane
Non-SMSA counties 1.7
WI Adams
WI Columbia
WI Green
WI Iowa
WI Marquette
WI Richland
WI Sauk

091 La Crosse, WI

SMSA
3870 La Corsse, WI 0.9
Non-SMSA counties 0.6
MN Houston
MN Winona
WI Buffalo
WI Jackson
WI Juneau
WI Monroe
WI Trempealeau
WI Vernon

092 Eau Claire, WI

SMSA
2290 Eau Claire, WI 0.5
WI Chippewa
WI Eau Claire
Non-SMSA counties 0.6
WI Barron
WI Dunn
WI Pepin
WI Rusk
WI Sawyer
WI Washburn

093 Wausau, WI

Non-SMSA counties 0.6
WI Clark
WI Langlade
WI Lincoln
WI Marathon
WI Oneida
WI Portage
WI Price
WI Taylor
WI Vilas
WI Wood

094 Appleton-Green Bay-Oshkosh, WI

SMSA
0460 Appleton-Oshkosh, WI 0.9
WI Calumet
WI Outagamie
WI Winnebago
3080 Green Bay, WI 1.3
WI Brown
Non-SMSA counties 1.0
MI Alger
MI Baraga
MI Delta
MI Dickinson
MI Houghton
MI Iron
MI Keweenaw
MI Marguette
MI Menominee
MI Schoolcraft
WI Door
WI Florence
WI Fond Du Lac
WI Forest
WI Green Lake
WI Kewaunee
WI Manitowoc
WI Marinette
WI Menomiee
WI Oconto
WI Shawano
WI Waupaca
WI Waushara

095 Duluth, MN

SMSA
2240 Duluth-Superior, MN–WI 1.0
MN St. Louis

095 Duluth, MN

WI Douglas
Non-SMSA counties 1.2
MI Gogebic
MI Ontonagon
MN Carlton
MN Cook
MN Itasca
MN Koochiching
MN Lake
WI Ashland
WI Bayfield

MINNESOTA ECONOMIC AREA

096 Minneapolis-St. Paul, MN

SMSA
5120 Minneapolis-St. Paul, MN-WI 2.9
MN Anokar
MN Carver
MN Chisago
MN Dakota
MN Hennepin
MN Ramsey
MN Scott
MN Washington
MN Wright
MN St. Croix
6980 St. Cloud, MN 0.5
MN Benton
MN Sherburne
MN Stearns
Non-SMSA 2.2
MN Aitkin
MN Big Stone
MN Blue Earth
MN Brown
MN Cass
MN Chippewa
MN Crow Wing
MN Douglas
MN Faribault
MN Goodhue
MN Grant
MN Isanti
MN Kanabec
MN Kandiyohi
MN Lac Qui Parle
MN Le Sueur
MN McLeod
MN Martin
MN Meeker
MN Mille Lacs
MN Morrison
MN Nicollet
MN Pine
MN Pope
MN Renville
MN Rice
MN Sibley
MN Stevens
MN Swift
MN Todd
MN Traverse
MN Wadena
MN Waseca
MN Watonwan
MN Yellow Medicine
WI Burnett
WI Pierce
WI Polk

097 Rochester, MN

SMSA
6820 Rochester, MN 1.4
MN Olmsted
Non-SMSA counties 0.9
MN Dodge
MN Fillmore
MN Freeborn
MN Mower
MN Steele
MN Wabasha

IOWA ECONOMIC AREA

098 Dubuque, IA

SMSA
220 Dubuque, IA 0.6
IA Dubuque
Non-SMSA counties 0.5
IL Jo Daviess
IA Allamakee
IA Clayton
IA Delaware
IA Jackson
IA Winneshiek
WI Crawford
WI Grant
WI Lafayette

099 Davenport-Rock Island-Moline, IA-IL

SMSA
1960 Davenport-Rock Island-Moline, IA-IL 4.6
IL Henry
IL Rock Island
IA Scott
Non-SMSA counties 3.4
IL Carroll
IL Hancock
IL Henderson
IL Mercer
IL Whiteside
IA Clinton
IA Des Moines
IA Henry
IA Lee
IA Louisa
IA Muscatine
MO Clark

100 Cedar Rapids, IA

SMSA
1360 Cedar Rapids, IA 1.7
IA Linn,
Non-SMSA counties 1.5
IA Benton
IA Cedar
IA Iowa
IA Johnson
IA Jones
IA Washington

101 Waterloo, IA

SMSA
8920 Waterloo-Cedar Falls, IA 4.7
IA Black Hawk
Non-SMSA counties 2.0
IA Bremer
IA Buchanan
IA Butler
IA Cerro Gordo
IA Chickasaw
IA Fayette
IA Floyd
IA Franklin
IA Grundy
IA Hancock
IA Hardin
IA Howard
IA Mitchell
IA Winnegago
IA Worth

102 Fort Dodge, IA

Non-SMSA counties 0.4
IA Buena Vista
IA Calhoun
IA Carroll
IA Clay
IA Dickinson
IA Emmet
IA Greene
IA Hamilton
IA Humboldt
IA Kossuth
IA Palo Alto
IA Pocahontas
IA Sac
IA Webster
IA Wright

103 Sioux City, IA

SMSA
7720 Sioux City, IA-NE 1.9
IA Woodbury
NE Dakota
Non-SMSA counties 1.2
IA Cherokee
IA Crawford
IA Ida
IA Monona
IA O'Brien
IA Plymouth
IA Sioux
NE Antelope
NE Cedar
NE Cuming
NE Dixon
NE Knox
NE Madison
NE Pierce
NE Stanton
NE Thurston
NE Wayne
SD Bon Homme
SD Clay
SD Union
SD Yankton

104 Des Moines, IA

2120 Des Moines, IA 4.5
IA Polk
IA Warren
Non-SMSA counties 2.4
IA Adair
IA Appanoose
IA Boone
IA Clarke
IA Dallas
IA Davis
IA Decatur
IA Guthrie
IA Jasper
IA Jefferson
IA Keokuk
IA Lucas
IA Madison
IA Mahaska
IA Marion
IA Marshall
IA Monroe
IA Poweshiek
IA Ringgold
IA Story
IA Tama
IA Union
IA Van Buren
IA Wapello
IA Wayne

MISSOURI ECONOMIC AREA

105 Kansas City, MO

SMSA
3760 Kansas City, MO-KS 12.7
KS Johnson
KS Wyandotte
MO Cass
MO Clay
MO Jackson
MO Platte
MO Ray
4150 Lawrence, KS 7.2
KS Douglas
7000 St. Joseph, MO 3.2
MO Andrew
MO Buchanan
Non-SMSA counties 10.0
KS Anderson
KS Atchison
KS Brown
KS Doniphan
KS Franklin
KS Leavenworth
KS Linn
KS Miami
MO Atchison
MO Bates
MO Benton
MO Caldwell
MO Carroll
MO Clinton
MO Daviess
MO Dekalb
MO Gentry
MO Grundy
MO Harrison
MO Henry
MO Holt
MO Johnson
MO Lafayette
MO Livingston
MO Mercer
MO Nodaway
MO Pettis
MO Saline
MO Worth

106 Columbia, MO

SMSA
1740 Columbia, MO 6.3
MO Boone
Non-SMSA counties 4.0
MO Adair
MO Audrain
MO Callaway
MO Camden
MO Chariton
MO Cole
MO Cooper
MO Howard
MO Knox
MO Linn
MO Macon
MO Miller
MO Moniteau

106 Columbia, MO

MO Monroe
MO Morgan
MO Osage
MO Putnam
MO Randolph
MO Schuyler
MO Scotland
MO Shelby
MO Sullivan

107 St. Louis, MO

SMSA	
7040 St. Louis, MO–IL	14.7
IL Clinton	
IL Madison	
IL Monroe	
IL St. Clair	
MO Franklin	
MO Jefferson	
MO St. Charles	
MO St. Louis	
MO St. Louis Ind. City	
Non-SMSA counties	11.4
IL Alexander	
IL Bond	
IL Calhoun	
IL Clay	
IL Effingham	
IL Fayette	
IL Franklin	
IL Greene	
IL Jackson	
IL Jasper	
IL Jefferson	
IL Jersey	
IL Johnson	
IL Macoupin	
IL Marion	
IL Montgomery	
IL Perry	
IL Pulaski	
IL Randolph	
IL Richland	
IL Union	
IL Washington	
IL Wayne	
IL Williamson	
MO Bollinger	
MO Butler	
MO Cape Girardeau	
MO Carter	
MO Crawford	
MO Dent	
MO Gasconade	
MO Iron	
MO Lincoln	
MO Madison	
MO Maries	
MO Mississippi	
MO Montgomery	
MO Perry	
MO Phelps	
MO Reynolds	
MO Ripley	
MO St. Francois	
MO Ste. Genevieve	
MO Scott	
MO Stoddard	
MO Warren	
MO Washington	
MO Wayne	

108 Springfield, MO

SMSA	
7920 Springfield, MO	2.0
MO Christian	
MO Greene	
Non-SMSA counties	2.3
KS Allen	
KS Bourbon	
KS Cherokee	
KS Crawford	
KS Labette	
KS Montgomery	
KS Neosho	
KS Wilson	
KS Woodson	
MO Barry	
MO Barton	
MO Cedar	
MO Dade	
MO Dallas	
MO Douglas	
MO Hickory	
MO Howell	
MO Jasper	
MO Laclede	

108 Springfield, MO

MO Lawrence
MO McDonald
MO Newton
MO Oregon
MO Ozark
MO Polk
MO Pulaski
MO St. Clair
MO Shannon
MO Stone
MO Taney
MO Texas
MO Vernon
MO Webster
MO Wright
OK Craig
OK Ottawa

ARKANSAS ECONOMIC AREAS

109 Fayetteville, AR

Non-SMSA counties	3.3
AR Baxter	
AR Benton	
AR Boone	
AR Carroll	
AR Madison	
AR Marion	
AR Newton	
AR Searcy	
AR Washington	
OK Adair	
OK Delaware	

110 Fort Smith, AR

SMSA	
2720 Fort Smith, AR–OK	5.6
AR Crawford	
AR Sebastian	
OK Le Flore	
OK Sequoyah	
Non-SMSA counties	6.6
AR Franklin	
AR Logan	
AR Polk	
AR Scott	
OK Choctaw	
OK Haskell	
OK Latimer	
OK McCurtain	
OK Pittsburg	
OK Pushmataha	

111 Little Rock-North Little Rock, AR

SMSA	
4400 Little Rock-North Little Rock, AR	5.7
AR Pulaski	
AR Saline	
6240 Pine Bluff, AR	31.2
AR Jefferson	
Non-SMSA counties	16.4
AR Arkansas	
AR Ashley	
AR Bradley	
AR Calhoun	
AR Chicot	
AR Clark	
AR Cleburne	
AR Cleveland	
AR Conway	
AR Dallas	
AR Desha	
AR Drew	
AR Faulkner	
AR Fulton	
AR Garland	
AR Grant	
AR Hot Spring	
AR Independence	
AR Izard	
AR Jackson	
AR Johnson	
AR Lincoln	
AR Lonoke	
AR Monroe	
AR Montgomery	
AR Ouachita	
AR Perry	
AR Pope	
AR Prairie	
AR Sharp	
AR Stone	
AR Union	
AR Van Buren	
AR White	
AR Woodruff	
AR Yell	

MISSISSIPPI ECONOMIC AREAS

112 Jackson, MS

SMSA	
3560 Jackson, MS	30.3
MS Hinds	
MS Rankin	
Non-SMSA counties	32.0
MS Attala	
MS Choctaw	
MS Claiborne	
MS Clarke	
MS Copiah	
MS Covington	
MS Franklin	
MS Holmes	
MS Humphreys	
MS Issaquena	
MS Jasper	
MS Jefferson	
MS Jefferson Davis	
MS Jones	
MS Kemper	
MS Lauderdale	
MS Lawrence	
MS Leake	
MS Lincoln	
MS Lowndes	
MS Madison	
MS Neshoba	
MS Newton	
MS Noxubee	
MS Oktibbeha	
MS Scott	
MS Sharkey	
MS Simpson	
MS Smith	
MS Warren	
MS Wayne	
MS Winston	
MS Yazoo	

LOUISIANA ECONOMIC AREA

113 New Orleans, LA

SMSA	
0920 Biloxi-Gulfport, MS	19.2
MS Hancock	
MS Harrison	
MS Stone	
5560 New Orleans, LA	31.0
LA Jefferson	
LA Orleans	
LA St. Bernard	
LA St. Tammany	
Non-SMSA counties	27.7
LA Assumption	
LA Lafourche	
LA Plaquemines	
LA St. Charles	
LA St. James	
LA St. John The Baptist	
LA Tangipahoa	
LA Terrebonne	
LA Washington	
MS Forrest	
MS Lamar	
MS Marion	
MS Pearl River	
MS Perry	
MS Pike	
MS Walthall	

114 Baton Rouge, LA

SMSA	
076 Baton Rouge, LA	26.1
LA Ascension	
LA East Baton Rouge	
LA Livingston	
LA West Baton Rouge	
Non-SMSA counties	30.4
LA Concordia	
LA E. Feliciana	
LA Iberville	
LA Pointe Coupee	
LA St. Helena	
LA West Feliciana	
MS Adams	
MS Amite	
MS Wilkinson	

115 Lafayette, LA

SMSA	
3880 Lafayette, LA	20.6
LA Lafayette	
Non-SMSA counties	24.1
LA Acadia	
LA Evangeline	
LA Iberia	

115 Lafayette, LA

LA St. Landry
LA St. Martin
LA St. Mary
LA Vermilion

16 Lake Charles, LA

SMSA
3960 Lake Charles, LA 19.3
LA Calcasieu
Non-SMSA counties 17.8
LA Allen
LA Beauregard
LA Cameron
LA Jefferson Davis
LA Vernon

117 Shreveport, LA

SMSA
0220 Alexandria, LA 25.7
LA Grant
LA Rapides
7680 Shreveport, LA 29.3
LA Bossier
LA Caddo
LA Webster
Non-SMSA counties 29.3
LA Avoyelles
LA Bienville
LA Claiborne
LA De Soto
LA Natchitoches
LA Red River
LA Sabine
LA Winn

118 Monroe, LA

SMSA
5200 Monroe, LA 22.8
LA Quachita
Non-SMSA counties 27.9
LA Caldwell
LA Catahoula
LA East Carroll
LA Franklin
LA Jackson
LA La Salle
LA Lincoln
LA Madison
LA Morehouse
LA Richland
LA Tensas
LA Union
LA West Carroll

TEXAS ECONOMIC AREA

119 Texarkana, TX

SMSA
8360 Texarkana, TX-Texarkana, AR 19.7
AR Little River
AR Miller
TX Bowie
Non-SMSA counties 20.2
AR Columbia
AR Hempstead
AR Howard
AR Lafayette
AR Nevada
AR Pike
AR Sevier
AX Camp
AX Cass
AX Lamar
AX Morris
AX Red River
AX Titus

120 Tyler-Longview, TX

SMSA
4420 Longview, TX 22.8
TX Gregg
TX Harrison
8640 Tyler, TX 23.5
TX Smith
Non-SMSA counties 22.5
TX Anderson
TX Angelina
TX Cherokee
TX Henderson
TX Houston
TX Marion
TX Nacogdoches
TX Panola
TX Rusk
TX San Augustine
TX Shelby
TX Upshur
TX Wood

121 Beaumont-Port Arthur, TX

SMSA
0840 Beaumont-Port Arthur-Orange, TX 22.6
TX Hardine
TX Jefferson
TX Orange
Non-SMSA counties 22.6
TX Jasper
TX Newton
TX Sabine
TX Tyler

122 Houston, TX

SMSA
1260 Bryan-College Station, TX 23.7
TX Brazos
2920 Galveston-Texas City, TX 28.9
TX Galveston
3360 Houston, TX 27.3
TX Brazoria
TX Fort Bend
TX Harris
TX Liberty
TX Montgomery
TX Waller
Non-SMSA counties 27.4
TX Austin
TX Burleson
TX Calhoun
TX Chambers
TX Colorado
TX De Witt
TX Fayette
TX Goliad
TX Grimes
TX Jackson
TX Lavaca
TX Leon
TX Madison
TX Matagorda
TX Polk
TX Robertson
TX San Jacinto
TX Trinity
TX Victoria
TX Walker
TX Washington
TX Wharton

123 Austin, TX

SMSA
0640 Austin, TX 24.1
TX Hays
TX Travis
TX Williamson
Non-SEMA counties 24.2
TX Bastrop
TX Burnet
TX Blanco
TX Caldwell
TX Lee
TX Llano

124 Waco-Killeen-Temple, TX

SMSA
3810 Killeen-Temple, TX 16.4
TX Bell
TX Coryell
8800 Waco, TX 20.7
TX Mc Lennan
Non-SMSA Counties 18.6
TX Bosque
TX Falls
TX Freestone
TX Hamilton
TX Hill
TX Lampasas
TX Limestone
TX Milam
TX Mills

125 Dallas-Fort Worth, TX

SMSA
1920 Dallas-Fort Worth, TX 18.2
TX Collin
TX Dallas
TX Denton
TX Ellis
TX Hood
TX Johnson
TX Kaufman
TX Parker
TX Rockwall
TX Tarrant
TX Wise
7640 Sherman-Denison, TX 9.4
TX Grayson

125 Dallas-Fort Worth, TX

Non-SMSA counties 17.2
OK Bryan
TX Cooke
TX Delta
TX Erath
TX Fannin
TX Franklin
TX Hopkins
TX Hunt
TX Jack
TX Montague
TX Navarro
TX Palo Pinto
TX Rains
TX Somervell
TX Van Zandt

126 Wichita Falls, TX

SMSA
9080 Wichita Falls, TX 12.4
TX Clay
TX Wichita
Non-SMSA counties 11.0
TX Archer
TX Baylor
TX Cottle
TX Foard
TX Hardeman
TX Wilbarger
TX Young

127 Abilene, TX .....

SMSA
0040 Abilene, TX 11.6
TX Callahan
TX Jones
TX Taylor
Non-SMSA counties 10.9
TX Brown
TX Coleman
TX Comanche
TX Eastland
TX Fisher
TX Haskell
TX Kent
TX Knox
TX Mitchell
TX Nolan
TX Scurry
TX Shackleford
TX Stephens
TX Stonewall
TX Throckmorton

128 San Angelo, TX

SMSA
7200 San Angelo, TX 19.2
TX Tom Green
Non-SMSA counties 20.0
TX Coke
TX Concho
TX Crockett
TX Irion
TX Kimble
TX McCulloch
TX Mason
TX Menard
TX Reagan
TX Runnels
TX San Saba
TX Schleicher
TX Sterling
TX Sutton
TX Terrell

129 San Antonio, TX

SMSA
4080 Laredo, TX 87.3
TX Webb
7240 San Antonio, TX 47.8
TX Bexar
TX Comal
TX Guadalupe
Non-SMSA counties 49.4
TX Atascosa
TX Bandera
TX Dimmit
TX Edwards
TX Frio
TX Gillespie
TX Gonzales
TX Jim Hogg
TX Karnes
TX Kendall
TX Kerr
TX Kinney
TX La Salle
TX McMullen

129 San Antonio, TX

TX Maverick
TX Medina
TX Real
TX Uvalde
TX Val Verde
TX Wilson
TX Zapata
TX Zavala

130 Corpus Christi, TX

SMSA
1880 Corpus Christi, TX 41.7
TX Nueces
TX San Patricio
Non-SMSA counties 44.2
TX Aransas
TX Bee
TX Brooks
TX Duval
TX Jim Wells
TX Kenedy
TX Kleberg
TX Live Oak
TX Refugio

131 Brownsville-McAllen-Harlingen, TX

SMSA
1240 Brownsville-Harlingen-San Benito, TX 71.0
TX Cameron
4880 McAllen-Pharr-Edinburg, TX 72.8
TX Hidalgo
Non-SMSA counties 72.9
TX Starr
TX Willacy

132 Odessa-Midland, TX

SMSA
5040 Midland, TX 19.1
TX Midland
5800 Odessa, TX 15.1
TX Ector
Non-SMSA counties 18.9
TX Andrews
TX Crane
TX Glassock
TX Howard
TX Loving
TX Martin
TX Pecos
TX Reeves
TX Upton
TX Ward
TX Winkler

133 El Paso, TX

SMSA
2320 El Paso, TX 57.8
TX El Paso
Non-SMSA counties 49.0
NM Chaves
NM Dona Ana
NM Eddy
NM Grant
NM Hidalgo
NM Luna
NM Otero
NM Sierra
EX Brewster
TX Culberson
TX Hudspeth
TX Jeff Davis
TX Presidio

134 Lubbock, TX

SMSA
4600 Lubbock, TX 19.6
TX Lubbock
Non-SMSA counties 19.5
NM Lea
NM Roosevelt
TX Bailey
TX Borden
TX Cochran
TX Crosby
TX Dawson
TX Dickens
TX Floyd
TX Gaines
TX Garza
TX Hale
TX Hockley
TX King
TX Lamb
TX Lynn
TX Motley
TX Terry
TX Yoakum

135 Amarillo, TX

SMSA
0320 Amarillo, TX 9.3
TX Potter
TX Randall
Non-SMSA counties 11.0
NM Curry
NM Harding
NM Quay
NM Union
OK Beaver
OK Cimarron
OK Texas
TX Armstrong
TX Briscoe
TX Carson
TX Castro
TX Childress
TX Collingsworth
TX Dallam
TX Deaf Smith
TX Donley
TX Gray
TX Hall
TX Hansford
TX Hartley
TX Hemphill
TX Hutchinson
TX Lipscomb
TX Moore
TX Ochiltree
TX Oldham
TX Parmer
TX Roberts
TX Sherman
TX Swisher
TX Wheeler

OKLAHOMA ECONOMIC AREA

136 Lawton, OK

SMSA
4200 Lawton, OK 14.8
OK Comanche
Non-SMSA counties 10.8
OK Cotton
OK Greer
OK Harmon
OK Jackson
OK Jefferson
OK Kiowa
OK Stephens
OK Tillman

137 Oklahoma City, OK

SMSA
5880 Oklahoma City, OK 10.2
OK Canadian
OK Cleveland
OK McClain
OK Oklahoma
OK Pottawatomie
Non-SMSA counties 9.0
OK Alfalfa
OK Atoka
OK Beckham
OK Blaine
OK Caddo
OK Carter
OK Coal
OK Custer
OK Dewey
OK Ellis
OK Garfield
OK Garvin
OK Grady
OK Grant
OK Harper
OK Hughes
OK Johnston
OK Kingfisher
OK Lincoln
OK Logan
OK Love
OK Major
OK Marshall
OK Murray
OK Okfuskee
OK Pontotoc
OK Roger Mills
OK Seminole
OK Washita
OK Woods
OK Woodward

138 Tulsa, OK

SMSA
8560 Tulsa, OK 10.2
OK Creek
OK Mayes
OK Osage
OK Rogers
OK Tulsa
OK Wagoner
Non-SMSA counties 10.0
OK Cherokee
OK Kay
OK Mc Intosh
OK Muskogee
OK Noble
OK Nowata
OK Okmulgee
OK Pawnee
OK Payne
OK Payne
OK Washington

KANSAS ECONOMIC AREA

139 Wichita, KS

SMSA
9040 Wichita, KS 7.9
KS Butler
KS Sedgwick
Non-SMSA counties 5.7
KS Barber
KS Barton
KS Chase
KS Chautauqua
KS Clark
KS Comanche
KS Cowley
KS Edwards
KS Elk
KS Finney
KS Ford
KS Grant
KS Gray
KS Greeley
KS Greenwood
KS Hamilton
KS Harper
KS Harvey
KS Haskell
KS Hodgeman
KS Kerny
KS Kingman
KS Kiowa
KS Lane
KS McPherson
KS Marion
KS Meade
KS Morton
KS Ness
KS Pawnee
KS Pratt
KS Reno
KS Rice
KS Rush
KS Scott
KS Seward
KS Stafford
KS Stanton
KS Stevens
KS Sumner
KS Wichita

140 Salina, KS

Non-SMSA counties 1.5
KS Cheyenne
KS Cloud
KS Decatur
KS Dickinson
KS Ellis
KS Ellsworth
KS Gove
KS Graham
KS Jewell
KS Lincoln
KS Logan
KS Mitchell
KS Norton
KS Osborne
KS Ottawa
KS Phillips
KS Rawlins
KS Republic
KS Rooks
KS Russell
KS Saline
KS Sheridan
KS Sherman
KS Smith
KS Thomas
KS Trego
KS Wallace

141 Topeka, KS

SMSA
8440 Topeka, KS 9.0
KS Jefferson
KS Osage
KS Shawnee
Non-SMSA counties 6.5
KS Clay
KS Coffey
KS Geary
KS Jackson
KS Lyon
KS Marshall
KS Morris
KS Nemaha
KS Pottawatomie
KS Riley
KS Wabaunsee
KS Washington

NEBRASKA ECONOMIC AREA

142 Lincoln, NE

SMSA
4360 Lincoln, NE 2.8
NE Lancaster
Non-SMAS counties 1.9
NE Butler
NE Fillmore
NE Gage
NE Jefferson
NE Johnson
NE Nemaha
NE Otoe
NE Pawnee
NE Polk
NE Richardson
NE Saline
NE Seward
NE Thayer
NE York

143 Omaha, NE

SMSA
5920 Omaha, NE–IA 7.6
IA Pottawattamie
NE Douglas
NE Sarpy
Non-SMSA counties 5.3
IA Adams
IA Audubon
IA Cass
IA Fremont
IA Harrison
IA Mills
IA Montgomery
IA Page
IA Shelby
IA Taylor
NE Burt
NE Cass
NE Colfax
NE Dodge
NE Platte
NE Saunders
NE Washington

144 Grand Island, NE

Non-SMSA counties 1.4
NE Adams
NE Arthur
NE Blaine
NE Boone
NE Boyd
NE Brown
NE Buffalo
NE Chase
NE Cherry
NE Clay
NE Custer
NE Dawson
NE Dundy
NE Franklin
NE Frontier
NE Furnas
NE Garfield
NE Gosper
NE Grant
NE Greeley
NE Hall
NE Hamilton
NE Harlan
NE Hayes
NE Hitchcock
NE Holt
NE Hooker
NE Howard

144 Grand Island, NE

NE Kearney
NE Keith
NE Keya Paha
NE Lincoln
NE Logan
NE Loup
NE McPherson
NE Merrick
NE Nance
NE Nuckolls
NE Perkins
NE Phelps
NE Red Willow
NE Rock
NE Sherman
NE Thomas
NE Valley
NE Webster
NE Wheeler

145 Scottsbluff, NE

Non-SMSA counties 5.3
NE Banner
NE Box Butte
NE Cheyenne
NE Dawes
NE Deuel
NE Garden
NE Kimball
NE Morrill
NE Scotts Bluff
NE Sheridan
NE Sioux
NE Goshen

SOUTH DAKOTA ECONOMIC AREA

146 Rapid City, SD

SMSA
6660 Rapid City, SD 3.4
SD Pennington
SD Meade
Non-SMSA counties 7.9
SD Bennett
SD Buffalo
SD Butte
SD Campbell
SD Corson
SD Custer
SD Dewey (Armstrong)
SD Fall River
SD Haakon
SD Harding
SD Hughes
SD Hyde
SD Jackson
SD Jones
SD Lawrence
SD Lyman
SD Mellette
SD Perkins
SD Potter
SD Shannon (Washington)
SD Stanley
SD Sully
SD Todd
SD Tripp
SD Walworth
SD Washabaugh
SD Ziebach
WY Crook
WY Niobrara
WY Weston

147 Sioux Falls, SD

7760 Sioux Falls, SD 1.2
SD Minnehaha
Non-SMSA counties 0.8
IA Lyon
IA Osceola
MN Cottonwood
MN Jackson
MN Lincoln
MN Lyon
MN Murray
MN Nobles
MN Pipestone
MN Redwood
MN Rock
SD Aurora
SD Beadle
SD Brookings
SD Brule
SD Charles Mix
SD Davison
SD Douglas
SD Gregory

147 Sioux Falls, SD

SD Hand
SD Hanson
SD Hutchinson
SD Jerauld
SD Kingsbury
SD Lake
SD Lincoln
SD McCook
SD Miner
SD Moody
SD Sanborn
SD Turner

148 Aberdeen, SD

Non-SMSA counties 1.3
SD Brown
SD Clark
SD Codington
SD Day
SD Deuel
SD Edmunds
SD Faulk
SD Grant
SD Hamlin
SD McPherson
SD Marshall
SD Roberts
SD Spink

NORTH DAKOTA ECONOMIC AREA

149 Fargo-Moorhead, ND–MN

Non-SMSA counties 0.7
MN Becker
MN Clay
MN Cass
MN Wilkin
ND Barnes
ND Dickey
ND Eddy
ND Foster
ND Griggs
ND LaMoure
ND Logan
ND McIntosh
ND Ransom
ND Richland
ND Sargent
ND Steele
ND Stutsman
ND Traill

150 Grand Forks, ND

SMSA
2985 Grand Forks, ND–MN 1.2
MN Polk
ND Grand Forks
Non-SMSA counties 2.0
MN Bletrami
MN Clearwater
MN Hubbard
MN Kittson
MN Lake of the Woods
MN Mahnomen
MN Marshall
MN Norman
MN Pennington
MN Red Lake
MN Roseau
ND Benson
ND Cavalier
ND Nelson
ND Pembina
ND Ramsey
ND Towner
ND Walsh

151 Bismarck, ND

SMSA
1010 Bismarck, ND 0.4
ND Burleigh
ND Morton
Non-SMSA counties 1.3
ND Adams
ND Billings
ND Bowman
ND Dunn
ND Emmons
ND Golden Valley
ND Grant
ND Hettinger
ND Kidder
ND Mercer
ND Oliver
ND Sheridan
ND Sioux
ND Slope
ND Stark
ND Wells

152 Minot, ND

Non-SMSA counties 4.4
MT Daniels
MT Richland
MT Roosevelt
MT Sheridan
ND Bottineau
ND Burke
ND Divide
ND McHenry
ND McKenzie
ND McLean
ND Mountrail
ND Pierce
ND Renville
ND Rolette
ND Ward
ND Williams

MONTANA ECONOMIC AREA

153 Great Falls, MT

3040 Great Falls, MT 3.2
MT Cascade
Non-SMSA counties 4.1
MT Blaine
MT Broadwater
MT Chouteau
MT Fergus
MT Glacier
MT Hill
MT Jefferson
MT Judith Basin
MT Lewis and Clark
MT Liberty
MT Meagher
MT Petroleum
MT Phillips
MT Pondera
MT Teton
MT Toole
MT Valley
MT Wheatland

154 Missoula, MT

Non-SMSA counties 2.7
MT Beaverhead
MT Deer Lodge
MT Flathead
MT Granite
MT Lincoln
MT Madison
MT Mineral
MT Missoula
MT Powell
MT Ravalli
MT Sanders
MT Silver Bow

155 Billings, MT

0880 Billings, MT 3.3
MT Yellowstone
Non-SMSA counties 3.3
MT Big Horn
MT Carbon
MT Carter
MT Custer
MT Dawson
MT Fallon
MT Gallatin
MT Garfield
MT Golden Valley
MT Mc Cone
MT Musselshell
MT Park
MT Powder River
MT Prairie
MT Rosebud
MT Stillwater
MT Sweet Grass
MT Treasure
MT Wilbaux
MT Ylwst N Pk & Part
WY Big Horn
WY Hot Springs
WY Park
WY Sheridan
WY Washakie

156 Cheyenne-Casper, WY

Non-SMSA counties 7.5
CO Jackson
WY Albany
WY Campbell
WY Carbon
WY Converse
WY Fremont

156 Cheyenne-Casper, WY

WY Johnson
WY Laramie
WY Natrona
WY Platte

157 Denver, CO

2080 Denver-Boulder, CO 13.8
CO Adams
CO Arapahoe
CO Boulder
CO Denver
CO Douglas
CO Gilpin
CO Jefferson
2670 Fort Collins, CO 6.9
CO Larimer
3060 Greeley, CO 13.1
CO Weld
Non-SMSA counties 12.8
CO Cheyenne
CO Clear Creek
CO Elbert
CO Grand
CO Kit Carson
CO Logan
CO Morgan
CO Park
CO Phillips
CO Sedgwick
CO Summit
CO Washington
CO Yuma

158 Colorado Springs-Pueblo, CO

1720 Colorado Springs, CO 10.9
CO El Paso
CO Teller
6560 Pueblo, CO 27.5
CO Pueblo
Non-SMSA counties 19.0
CO Alamosa
CO Baca
CO Bent
CO Chaffee
CO Conejos
CO Costilla
CO Crowley
CO Custer
CO Fremont
CO Huerfano
CO Kiowa
CO Lake
CO Las Animas
CO Lincoln
CO Mineral
CO Otera
CO Prowers
CO Rio Grande
CO Saguache

159 Grand Junction, CO

Non-SMSA counties 10.2
CO Archuleta
CO Delta
CO Dolores
CO Eagle
CO Garfield
CO Gunnison
CO Hinsdale
CO La Plata
CO Mesa
CO Moffat
CO Montezuma
CO Montrose
CO Ouray
CO Pitkin
CO Rio Blanco
CO Routt
CO San Juan
CO San Miguel
UT Grand
UT San Juan

NEW MEXICO ECONOMIC AREA

160 Albuquerque, NM

0200 Albuquerque, NM 38.3
NM Bernalillo
NM Sandoval
Non-SMSA counties 45.9
NM Catron
NM Colfax
NM De Baca
NM Guadalupe
NM Lincoln
NM Los Alamos
NM McKinley
NM Mora

NEW MEXICO ECONOMIC AREA

160 Albuquerque, NM

NM Rio Arriba
NM San Juan
NM San Miguel
NM Santa Fe
NM Socorro
NM Taos
NM Torrance

ARIZONA ECONOMIC AREA

161 Tucson, AZ

8520 Tucson, AZ 24.1
AZ Pima
Non-SMSA counties 27.0
AZ Cochise
AZ Graham
AZ Greenlee
AZ Santa Cruz

162 Phoenix, AZ

6200 Phoenix, AZ 15.8
AZ Maricopa
Non-SMSA counties 19.6
AZ Apache
AZ Coconino
AZ Gila
AZ Mohave
AZ Navajo
AZ Pinal
AZ Yavapai
AZ Yuma

NEVADA ECONOMIC AREA

163 Las Vegas, NV

4120 Las Vegas, NV 13.9
NV Clark
Non-SMSA counties 12.6
NV Esmeralda
NV Lincoln
NV Nye
UT Beaver
UT Garfield
UT Iron
UT Kane
UT Washington

164 Reno, NV

6720 Reno, NV 8.2
NV Washoe
Non-SMSA counties 9.2
NV Churchill
NV Douglas
NV Elko
NV Eureka
NV Humboldt
NV Lander
NV Lyon
NV Mineral
NV Pershing
NV Storey
NV White Pine
NV Carson City

UTAH ECONOMIC AREA

165 Salt Lake City-Ogden, UT

6520 Provo-Orem, UT 2.4
UT Utah
7160 Salt Lake City-Ogden, UT 6.0
UT Davis
UT Salt Lake
UT Tooele
UT Weber
Non-SMSA counties 5.1
ID Bear Lake
ID Franklin
ID Oneida
UT Box Elder
UT Cache
UT Carbon
UT Daggett
UT Duchesne
UT Emery
UT Juab
UT Millard
UT Morgan
UT Piute
UT Rich
UT Sanpete
UT Sevier
UT Summit
UT Uintah
UT Wasatch
UT Wayne
WY Lincoln
WY Sublette

UTAH ECONOMIC AREA

165 Salt Lake City-Ogden, UT

WY Sweetwater
WY Uinta

IDAHO ECONOMIC AREA

166 Pocatello-Idaho Falls, ID

Non-SMSA counties 4.0
ID Bannock
ID Bingham
ID Blaine
ID Bonneville
ID Butte
ID Camas
ID Caribou
ID Cassia
ID Clark
ID Custer
ID Fremont
ID Gooding
ID Jefferson
ID Jerome
ID Lemhi
ID Lincoln
ID Madison
ID Minidoka
ID Power
ID Teton
ID Twin Falls
WY Teton

167 Boise City, ID

1080 Boise City, ID 2.3
ID Ada
Non-SMSA counties 4.4
ID Adams
ID Boise
ID Canyon
ID Elmore
ID Gem
ID Owyhee
ID Payette
ID Valley
ID Washington
OR Harney
OR Malheur

WASHINGTON ECONOMIC AREA

168 Spokane, WA

7840 Spokane, WA 2.8
WA Spokane
Non-SMSA counties 3.0
ID Benewah
ID Bonner
ID Boundary
ID Clearwater
ID Idaho
ID Kootenai
ID Latah
ID Lewis
ID Nez Perce
ID Shoshone
WA Adams
WA Asotin
WA Columbia
WA Ferry
WA Garfield
WA Lincoln
WA Pend Oreille
WA Stevens
WA Whitman

169 Richland, WA

6740 Richland-Kennewick, WA 5.4
WA Benton
WA Franklin
Non-SMSA counties 3.6
OR Baker
OR Gilliam
OR Grant
OR Morrow
OR Umatilla
OR Union
OR Wallowa
OR Wheeler
WA Walla Walla

170 Yakima, WA

9260 Yakima, WA 9.7
WA Yakima
Non-SMSA counties 7.2
WA Chelan
WA Douglas
WA Grant
WA Kittitas
WA Okanogan

171 Seattle, WA

7600 Seattle-Everett, WA 7.2
WA King
WA Snohomish
8200 Tacoma, WA 6.2
WA Pierce
Non-SMSA counties 6.1
WA Clallam
WA Grays Harbor
WA Island
WA Jefferson
WA Kitsap
WA Lewis
WA Mason
WA Pacific
WA San Juan
WA Skagit
WA Thurston
WA Whatcom

OREGON ECONOMIC AREA

172 Portland, OR

SMSA
6440 Portland, OR-WA 4.5
OR Clackamas
OR Multnomah
OR Washington
WA Clark
7080 Salem, OR 2.9
OR Marion
OR Polk
Non-SMSA counties 3.8
OR Benton
OR Clatsop
OR Columbia
OR Crook
OR Deschutes
OR Hood River
OR Jefferson
OR Lincoln
OR Linn
OR Sherman
OR Tillamook
OR Wasco
OR Yamhill
WA Cowlitz
WA Klickitat
WA Skamania
WA Wahkiakum

173 Eugene, OR

SMSA
2400 Eugene-Springfield, OR 2.4
OR Lane
Non-SMSA counties 2.4
OR Coos
OR Curry
OR Douglas
OR Jackson
OR Josephine
OR Klamath
OR Lake

CALIFORNIA ECONOMIC AREA

174 Redding, CA

Non-SMSA counties 6.8
CA Lassen
CA Modoc
CA Plumas
CA Shasta
CA Siskiyou
CA Tehama

175 Eureka, CA

Non-SMSA counties 6.6
CA Del Norte
CA Humboldt
CA Trinity

176 San Franciso-Oakland-San Jose, CA

SMSA
7120 Salinas-Seaside-Monterey, CA 28.9
CA Monterey
7360 San Francisco-Oakland, CA 25.6
CA Alameda
CA Contra Costa
CA Marin
CA San Francisco
CA San Mateo
7400 San Jose, CA 19.6
CA Santa Clara
7485 Santa Cruz, CA 14.9
CA Santa Cruz
7500 Santa Rosa, CA 9.1
CA Sonoma
8720 Vallejo-Fairfield-Napa, CA 17.1
CA Napa

176 San Franciso-Oakland-San Jose, CA

CA Soland
Non-SMSA counties 23.2
CA Lake
CA Lake Mendocino
CA San Benito

177 Sacramento, CA

SMSA
6920 Sacramento, CA 16.1
CA Placer
CA Sacramento
CA Yolo
Non-SMSA counties 14.3
CA Butte
CA Colusa
CA El Dorado
CA Glenn
CA Nevada
CA Sierra
CA Sutter
CA Yuba

178 Stockton-Modesto, CA

SMSA
5170 Modesto, CA 12.3
CA Stanislaus
8120 Stockton, CA 24.3
CA San Joaquin
Non-SMSA counties 19.8
CA Alpine
CA Amador
CA Calaveras
CA Mariposa
CA Merced
CA Tuolumne

179 Fresno-Bakersfield, CA

SMSA
0680 Bakersfield, CA 19.1
CA Kern
2840 Fresno, CA 26.1
CA Fresno
Non-SMSA Counties 23.6
CA Kings
CA Madera
CA Tulare

180 Los Angeles, CA

SMSA
0360 Anaheim-Santa Ana-Garden Grove, CA 11.9
CA Orange
4480 Los Angeles-Long Beach, CA 28.3
CA Los Angeles
6000 Oxnard-Simi Valley-Ventura, CA 21.5
CA Ventura
6780 Riverside-San Bernadino-Ontario, CA 19.0
CA Riverside
CA San Bernardino
7480 Santa Barbara-Santa Maria-Lompoc, CA 19.7
CA Santa Barbara
Non-SMSA counties 24.6
CA Inyo
CA Mono
CA San Luis Obispo

181 San Diego, CA

SMSA
7320 San Diego, CA 16.9
CA San Diego
Non-SMSA counties 18.2
CA Imperial

ALASKA ECONOMIC AREA

182 Anchorage, AK

SMSA
0380 Anchorage, AK 8.7
AK Anchorage Division
Non-SMSA counties 15.1
AK Aleutian Islands Division
AK Angoon Division
AK Barrow-North Slope Division
AK Bethel Division
AK Bristol Bay Borough
AK Bristol Bay Division
AK Cordova McCarthy Division
AK Fairbanks Division
AK Haines Division
AK Juneau Division
AK Kenai-Cook Inlet Division
AK Ketchikan Division
AK Kobuk Division
AK Kodiak Division
AK Kuskokwim Division
AK Matanuska-Susitna Division
AK Nome Division
AK Outer Ketchikan Division
AK Prince of Wales Division

ALASKA ECONOMIC AREA

182 Anchorage, AK

AK Seward Division
AK Sitka Division
AK Skagway-Yakutat Division
AK Southeast Fairbanks Division
AK Upper Yukon Division
AK Valdez-Citina-Whittier Division
AK Wade Hampton Division
AK Wrangell-Petersburg Division
AK Yukon-Koyukuk Division

HAWAII ECONOMIC AREA

183 Honolulu, HI

SMSA	
3320 Honolulu, HI	69.1
HI Honolulu	
Non-SMSA Counties	70.4
HI Hawaii	
HI Kauai	
HI Maui + Kalawao	

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-79-24-M]

American Gilsonite Co.; Petition for Modification of Application of Mandatory Safety Standard

American Gilsonite Company, Bonanza, Utah 84008, has filed a petition to modify the application of 30 CFR 57.19-65 (hoisting procedures) to its Bonanza Operations located in Uintah County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The standard prohibits the lowering of conveyances by the use of the hoist brake alone, except during emergencies.

2. The petitioner is mining gilsonite from narrow, vertical to slightly inclined fractures. The shafts of the petitioner's mine follow the dip of the veins, which can change as the shaft deepens.

3. The petitioner requests permission to lower its miners down the shafts using brakes alone for the following reasons:

(a) The hoistman has a better feel for problems or obstructions in the shaft when lowering by brakes and thereby can react faster than if lowering is done under power.

(b) The shafts are relatively shallow; therefore, brakes are not used excessively to a point of becoming overheated or inoperative.

(c) The petitioner's hoists are not designed for powered lowering of the conveyance, except at full speed. Because of the way the shaft follows the vein, lowering miners at full speed is not safe.

4. For these reasons, the petitioner believes that lowering its miners by the use of brakes alone will enhance the safety of its miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 9, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 29, 1979.

Robert B. Lagather,

Assistant Secretary, Mine Safety and Health.

[FR Doc. 79-27965 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-25-M]

Demar Boren; Petition for Modification of Application of Mandatory Safety Standard

Demar Boren, 220 West Main, Vernal, Utah 84078, has filed a petition to modify the application of 30 CFR 57.19-65 (hoisting procedures) to its Little Emma No. 4 Mine located in Uintah County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The standard prohibits the lowering of conveyances by the use of the hoist brake alone, except during emergencies.

2. The petitioner is mining gilsonite from narrow, vertical to slightly inclined fractures. The shafts of the petitioner's mine follow the dip of the veins, which can change as the shaft deepens.

3. The petitioner requests permission to lower its miners down the shafts using brakes alone for the following reasons:

(a) The hoistman has a better feel for problems or obstructions in the shaft when lowering by brakes and thereby can react faster than if lowering is done under power.

(b) The shafts are relatively shallow; therefore, brakes are not used excessively to a point of becoming overheated or inoperative.

(c) The petitioner's hoists are not designed for powered lowering of the conveyance, except at full speed. Because of the way the shaft follows the vein, lowering miners at full speed is not safe.

4. For these reasons, the petitioner believes that lowering its miners by the use of brakes alone will enhance the safety of its miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 9, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 29, 1979.

Robert B. Lagather,

Assistant Secretary, Mine Safety and Health.

[FR Doc. 79-27964 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-121-C]

Ember Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Ember Coal Company, Route 2, box 317, Pikeville, Kentucky 41501, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its No. 1 Mine, located in Pikeville, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the use of cabs or canopies on electric face equipment in the petitioner's mine.

2. The petitioner is mining coal seams ranging 44 to 54 inches in height. The coal seam has consistent ascending and descending grades, creating dips in the mine floor.

3. As a result of these dips, canopies create a hazard by tearing out roof bolts and crossbars supporting the roof.

4. In addition, in low seams heights, canopies do not allow the equipment operator proper visibility for safe operation of the equipment, thus endangering other miners in the area.

5. For these reasons, the petitioner believes that cabs or canopies in the heights encountered in its mine will result in a diminution of safety and therefore requests relief from the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 9, 1979. Comments must be filed with the Office of Standards, Regulations and variances, Mine Safety and Health Administration, 4015 Wilson boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated August 29, 1979.

Robert B. Lagather,

Assistant Secretary, Mine Safety and Health.

[FR Doc. 79-27966 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs; Amendment of Prohibited Transaction Exemption 77-9

AGENCY: Department of Labor.

ACTION: Amendment of Prohibited Transaction Exemption 77-9

SUMMARY: This document amends Prohibited Transaction Exemption 77-9 to delay for six months the effective date of a condition of that exemption. Prohibited Transaction Exemption 77-9 is the class exemption relating to certain transactions commonly engaged in by employee benefit plans with insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters. The delay will affect participants, beneficiaries and fiduciaries of employee benefit plans, sponsors of such plans, insurance agents and brokers, pension consultants and insurance companies.

DATE: The amendment is retroactively effective as of January 1, 1979.

FOR FURTHER INFORMATION CONTACT: Robert R. Bitticks, Esq., Room C-4508, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8620.

SUPPLEMENTARY INFORMATION: The Department of Labor (the Department) is hereby amending Prohibited Transaction Exemption 77-9, a class exemption which permits certain transactions that might otherwise be prohibited by the Employee Retirement Income Security Act of 1974 (the Act) and be subject to excise taxes imposed by the Internal Revenue Code 1954 (the Code) as amended by the Act. The exemption relates to various common transactions engaged in by insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters in connection with the sale to employee benefit plans of insurance and annuity contracts and securities issued by investment companies.

The exemption was granted June 24, 1977 (42 FR 32395).[1] On that same date, additional conditions were proposed to be added to exemption (42 FR 32399). The proposed additional conditions together with other proposed amendments (see 43 FR 18354, April 28, 1978), were the subject of a public hearing on July 20, 1978. The exemption, as amended, was filed with the **Federal Register** on December 29, 1978 and published on January 5, 1979 (44 FR 1479). Among other conditions, one of the conditions which had been proposed on June 24, 1977 was adopted, effective for transactions entered into after December 31, 1978. That condition requires that in order to take advantage of the exemption, and insurance agent or broker or pension consultant must, with respect to a transaction (occurring after December 31, 1978) involving the purchase with plan assets of an insurance or annuity contract or the receipt of a sales commission thereon, provide to an independent plan fiduciary, prior to execution of the transaction, a description of any charges, fees, discounts, penalties or adjustments which may be imposed under a recommended contract in connection with the purchase, holding, exchange, termination or sale of such contract.

The Department was requested to postpone the effective date of the condition, as it applies to insurance agents, brokers and pension consultants, until July 1, 1979. On June 5, 1979 the Department proposed an amendment to the exemption (44 FR 32310) which would delay for six months the effective date of the condition. In response to the proposed amendment, the Department received only two letters of comment from the public. Both commentators urged that the proposed amendment be adopted.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary of a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of a fiduciary to discharge his duties with respect to the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The exemption, as hereby amended, is supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transition is in fact a prohibited transaction.

(3) The amended class exemption is applicable to a particular transaction only if the transaction satisfied the conditions specified in the exemption.

(4) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notice of June 5, 1979, the Department makes the following determinations:

(i) The amendment to the class exemption set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of the plans.

AMENDMENT

Section V(b)(1)(C) of Prohibited Transaction Exemption 77-9 is hereby amended by deleting the date "December 31, 1978" and substituting therefor "June 30, 1979," effective as of January 1, 1979.

Signed at Washington, D.C. this 28th day of August, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc. 79-27486 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-29-M

Pension and Welfare Benefit Programs

[Application No. L-1360]

Proposed Exemption for Certain Transactions Involving the Iron Workers Local Union No. 8 Joint Apprenticeship and Advanced Journeyman Training Trust Fund

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the proposed sale of real property by the Iron Workers Local Union No. 8 Joint Apprenticeship and Advanced Journeyman Training Trust Fund (the Plan) to the Iron Workers Local Union No. 8 (the Union). The proposed exemption, if granted, would affect the Union and participants and beneficiaries of the Plan.

[1] While the exemption was originally adopted and amended jointly by the Department and the Internal Revenue Service, it is being amended now by the Department acting alone pursuant to authority granted by Reorganization Plan No. 4 of 1978 (43 FR 47713) effective December 31, 1978 (44 FR 1065).

DATES: Written comments must be received by the Department on or before October 9, 1979.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. L-1360. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald D. Allen of the Department, telephone (202) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act. The proposed exemption was requested on behalf of the Board of Trustees of the Plan pursuant to section 408(a) of the Act and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a multiemployer welfare plan as defined in section 3(1) of the Act and was established to provide apprenticeship, employee, journeyman and instructor training for workers in the Iron Workers' trade and related occupations in accordance with section 302(c)(6) of the Labor-Management Relations Act of 1947, as amended. Pursuant to the terms of applicable collective bargaining agreements, approximately 111 employers contribute to the Plan based upon hours worked by employees represented by the Union. The Plan has approximately 1,059 participants. As of December 31, 1978, the Plan had net assets of $254,516.24.

2. The Plan presently owns approximately three acres of real property located at 12110 West Adler Lane, West Allis, Milwaukee County, Wisconsin. This real property is rectangular in shape and measures 260 feet by 485 feet (average depth). The Plan bought the real property in 1975 for $120,000 from an unrelated third party. A concrete block building situated on the western half of the real property is currently being used by the Plan as a training school.

The Plan proposes to sell the eastern half of the real property (the Property) to the Union. The Property being sold consists of approximately 1.44 acres which is rectangular in shape and measures 130 feet by 485 feet (average depth). The Plan has no present use or need for the Property. The Union proposes to construct an office building on the Property to be used as their principal headquarters.

3. The Board of Trustees for the Plan is comprised of four Employer and four Union appointed Trustees. The Employer Trustees are appointed by the Board of Directors of the Allied Construction Employers Association, Inc., the Employers' designated collective bargaining representative. The Union Trustees are appointed by the Union and are officers or members of the Union.

The Employer and Union Trustees are entitled to cast an equal number of aggregate votes on all Plan matters. With respect to the proposed sale of real property, the Union Trustees will remove themselves from all consideration by the Plan of any questions related to these transactions, including, specifically, whether or not the Plan should engage in the transaction. Additionally, the Union Trustee will not exercise any of the authority, control or responsibility which make them fiduciaries to cause the Plan to engage in this transaction. The Employer Trustees alone will consider and determine any and all questions related to this transaction.

4. An appraisal of the property was performed by James T. Barry, Jr., a member of the Society of Industrial Realtors and the American Society of Real Estate Counselors, on May 25, 1979. It is Mr. Barry's opinion that the fair market value of the property as of May 25, 1979 is $75,000.

The sales price of the Property will be its fair market value as of the date of the closing. This will be determined by updating the May 25, 1979 appraisal on the closing date. The sale will be for cash, to be paid in full at closing, with no installment payments or mortgage involved.

5. It is represented that the proposed transaction would satisfy the statutory provisions of section 408(a) of the Act because (1) the sale would be a one-time cash transaction; (2) the proposed transaction would allow the Plan and Union to locate their business offices in the same building and share services and facilities which are commonly needed and consequently, Plan participants would have their training and schooling conveniently located at the same location where they transact their Union business; and (3) the proposed sales price of the Property would be the greater of $75,000 or fair market value as established by an independent real estate appraiser.

Notice to Interested Parties

Within ten days after publication in the **Federal Register**, a copy of this notice of proposed exemption will be mailed by first class mail to the last known address of each participant and contributing Employer of the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemptions to the address above, within the time period set forth above. All comments should be made a part of the record. Comments should state the reasons for the writer's interest in the

pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act shall not apply to the cash sale of real property located at 12110 West Adler Lane, West Allis, Milwaukee County, Wisconsin, by the Plan to the Union for its fair market value as of the closing date of the transaction, to be established by an independent real estate appraiser but not less than $75,000.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 30th day of August, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27686 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-1446]

Proposed Exemption for Certain Transactions Involving the Leo J. Bolles, M.D., Inc. Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale by the Leo J. Bolles, M.D., Inc. Pension Plan (the Plan) of real property in Bellevue, Washington to Dr. Leo Bolles and his wife, Margaret Bolles (the Bolles) or to the Bolles and another partner. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Bolles, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before October 9, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1446. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by Leo J. Bolles, M.D., Inc., P.S. (the Employer), the sponsor of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit pension plan with three participants. Total assets of the Plan as of June 30, 1978 were $364,952. The trustees of the Plan are the Bolles.

2. In December of 1975, the Plan purchased certain real property located on Bellevue-Redmond Road and East of 156th Street, N.E. in Bellevue, Washington (the Property) from Promac Properties, a Washington Limited Partnership. Promac Properties is not a party in interest with reference to the Plan. The property purchased consisted of 83,628 square feet. The total purchase price was $136,135. This represented a cost of $1.63 per square foot. At the same time, the Bolles purchased property adjacent to the property the Plan purchased from Promac Properties. The properties purchased by the Bolles and the Plan were adjacent to the property already owned by the Bolles and upon which the medical office of the Employer is located. The Property produces no income.

3. The trustees of the Plan are requesting an exemption to sell the Property to the Bolles, or the Bolles and another partner to allow the Plan to diversify its investments and to obtain more liquid assets for the Plan. The Property presently represents approximately 37% of the assets of the Plan.

4. The trustees propose to sell the Property for cash, without paying a real estate sales commission. It is proposed that the purchase price would be $343,000 which would equal $4.00 per square foot. Said sum was determined by an independent appraisal performed on June 18, 1979 by Conger, Schueler and McKnown, Inc. The proposed sale would produce a gain to the Plan of approximately $207,000 on an investment of $136,135 in a period of three and one-half years.

5. In summary, the applicant represents that the proposed sale will satisfy the criteria of section 408(a) of the Act as follows: (1) it will be a one-time transaction for cash; (2) it will allow the Plan to sell the Property for a substantial profit at a price determined by an independent appraisal; (3) it will allow the Plan to sell the Property without paying a real estate sales commission; (4) it will allow the Plan to liquidate a no-yield investment and (5) it will allow the Plan to diversify its investments.

Notice to Interested Persons

Notice of this request for an exemption shall be hand delivered to all interested persons within ten days after notice of the proposed exemption is published in the **Federal Register**. The notice shall contain a copy of the notice of the proposed exemption as published in the **Federal Register** and it shall inform the interested persons of their right to comment and their right to request a hearing within the period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale for cash by the Plan of real property located on Bellevue-Redmond Road and East of 156th Street, N.E. in Bellevue, Washington for $343,000 to the Bolles or to the Bolles and a partner provided that this amount is not less than fair market value of the real property at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 29th day of August 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79–27887 Filed 9–6–79; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–1258]

Proposed Exemption for Certain Transactions Involving the DCA Food Industries Inc. Employees Retirement Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt certain past and proposed sales for cash by the DCA Food Industries Inc. Employees Retirement Plan (the Plan) of 5% cumulative preferred stock (Preferred Stock) of DCA Food Industries Inc. (the Employer) to the Employer. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 9, 1979.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Consititution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1258. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by the Manufacturers Hanover Trust Company (the Trustee), the Trustee of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a unit benefit pension plan. As of July 1, 1977 there were 1,110 participants in the Plan including active participants, retirees, vested separated participants, and beneficiaries. As of March 31, 1978 the fair market value of the assets of the Plan was $8,508,410.

BEA Associates is the investment manager of the Plan and has the authority to direct the disposition of the assets of the Plan.

2. The Plan owns 11,048.8 shares of the Preferred Stock. There are 32,885.2 outstanding shares of the Preferred Stock. The Preferred Stock owned by the Plan was purchased during the period 1956 through 1966. 3,400 shares were purchased in December 1956 at $50 a share; 3,400 shares were purchased in November 1959 at $50 a share; 622 shares were purchased in February 1965 at $50 a share; and 5,626.8 shares were purchased in December 1966 at $41 a share, resulting in an average price per share of $46.119.

3. When purchased, the Preferred Stock was regarded as a desirable investment for the Plan. However, market conditions and investment yields changed substantially after the Preferred Stock was purchased. The Preferred Stock pays a dividend of only 5%. There is no public trading market for the Preferred Stock.

4. The Employer during the period July 1974 through April 1975 purchased 2,000 shares of the Preferred Stock from the Plan at $50 per share. Eight hundred of the 2,000 shares were purchased by the Employer after January 1, 1975.

5. The Trustee is requesting an exemption for the 1975, commission free, cash sale of 800 shares of the Preferred Stock by the Plan to the Employer and for the proposed commission free, cash sale of 11,048.8 shares of the Preferred Stock by the Plan to the Employer for a price of $50 per share.

6. An independent appraisal of the value of the Preferred Stock has been submitted by Merrill Lynch, Pierce, Fenner & Smith Inc. (Merrill Lynch). Merrill Lynch represents that the market value of the Preferred Stock is less than $50 per share presently and was less than $50 per share in 1975.

7. In summary, the applicant represents that the 1975 cash sale of 800 shares of the Preferred Stock by the Plan to the Employer and the proposed cash sales of the Preferred Stock of 11,048.8 shares satisfy the criteria of section 408(a) of the Act because it allowed and will allow the Plan to: (1) engage in transactions which were approved by an independent trustee; (2) liquidate a low yield investment for which no established trading market exists; (3) sell the Preferred Stock for cash without paying a sales commission; and (4) sell the Preferred Stock at a price in excess of its fair market value as determined by an independent appraisal.

Notice to Interested Persons

The interested parties to whom notice will be provided are as follows: active participants, retirees, vested separated participants, beneficiaries, and the following employee organizations of which participants in the Plan are members:

Jessup Office

United Steelworkers of America, Local 13128

Hillsdale Plant

Miscellaneous Warehousemen, Airline, Automotive Parts, Service, Tire & Rental, Chemical & Petroleum, Ice, Paper and Related Clerical and Production Employees Union, Local No. 781, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America

New Orleans Plant

Brewery, Grain and Allied Workers Local Union No. 1158, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Independent

Buffalo Plant

Bakery & Confectionery Workers International Union of America AFL–CIO, Local No. 16

Within ten days after notice is published in the **Federal Register**, the notice to interested parties will be posted on bulletin boards which are regularly viewed by all Plan participants and mailed to each retiree, vested separated participant beneficiary and to each employee organization listed above. Each notice to interested parties will contain a copy of the notice of the pending exemption as published in the **Federal Register** and will inform the interested persons of their right to submit comments.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act, and sections 4975(c)(1)(E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above and within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) the cash sale in 1975 of 800 shares of the Preferred Stock at $50 per share by the Plan to the Employer and (2) the proposed cash sales of 11,048.8 shares of the Preferred Stock for $50 per share by the Plan to the Employer.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete,

and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of August 1979

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27888 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1024]

Proposed Exemption for Certain Transactions Involving the Times Herald Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Plan (the Plan) to the Times Herald Printing Company (the Employer), a party in interest. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 9, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1024. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Horace C. Green, of the Department of Labor, telephone (202) 523-8196. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendancy before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

On July 13, 1966, the Plan purchased a parcel of real property (the Property), located at 1207 Patterson Street, Dallas, Texas, from an unrelated party for $65,000. At present, the Property is being leased to Classified Parking System, Inc. of Dallas, Texas, an unrelated party, pursuant to a five year lease which expires on September 30, 1983, at a rental of $1400 per month. The Plan may terminate this lease upon ninety (90) days' written notice if the Plan sells the Property or elects to construct permanent masonry improvements on said premises.

2. An independent appraisal by Dunham & Associates Inc., an unrelated party, dated April 15, 1978, valued the Property at $280,000. The Employer wishes to acquire the Property, in order to construct a parking facility for its customers and employees, for the above appraised value of $280,000 in cash. No sales commission will be paid in connection with the proposed sale.

3. The Republic National Bank of Dallas is the trustee and investment adviser to the Plan. As of December 31, 1977, there were 518 participants in the Plan with assest valued at $10,307,874 and the proposed transaction represents less than 3% of the Plan assets.

4. The applicant believes that the sale of the Property by the Plan to the Employer would be beneficial because it will minimize the risk of the Property decreasing in value and the money received by the Plan could be invested in assets earning a greater return. All previous attempts to sell the Property to unrrelated parties have been futile. Since the Property is situated near other real estate owned by the applicant, or affiliates of the applicant, the Employer considers itself the most likely purchaser of the Property.

5. In summary, the applicant represents that the proposed sale of the Property meets the statutory criteria for an exemption under section 408(a) of the Act because (1) it is a one time transaction for cash, (2) the selling price for the Property was determined by an independent appraiser, (3) the Plan will be able to dispose of low income-producing property, for a large gain, and reinvest in assets earning a greater return and (4) since all previous attempts to sell the Property to unrelated parties have been fruitless, the Employer is the most likely purchaser.

Notice to Interested Persons

Notice to all present participants shall be by posting at the usual places for such notices to employees and by first class mail to all other interested persons. Notice shall be given within five (5) working days of the day the notice of the pendency of such exemption is published in the **Federal Register.**

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiarties of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible,

in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1, (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406 (a), 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by the Plan to the Employer for cash of real property situated at 1207 Patterson Street, Dallas, Texas, provided that the price is not less than the fair market value of the property at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of August, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79–27889 Filed 9–6–79; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–1466]

Proposed Exemption for Certain Transactions Involving Blue Chip Stamps Employees' Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt certain past extensions of credit to the Blue Chip Stamps Employees' Pension Plan (the Plan) by the Illinois National Bank and Trust Company (the Trustee), the Trustee of the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Trustee, Blue Chip Stamps (the Employer) and other persons who participated in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before October 9, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1466. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The plan is a non-contributory defined benefit pension plan. As of December 31, 1978, the Plan had total assets of $3,547,575.49 and 330 plan participants.

2. During December, 1978, the Plan decided to purchase certain marketable securities. Since the Plan had limited cash balances, it became necessary to sell some assets of the Plan in order to raise sufficient cash to effect the purchase of the securities. To this end, the Plan in late December, 1978 placed an order to sell all of the shares of Scudder Managed Reserves, Inc. (Scudder Shares) held by the Plan. Due to administrative problems, the funds from this sale were not received by the Plan until February 15, 1979. As a result of the delay in the completion of the sale of the Scudder shares, the Plan was in an overdraft position with the Trustee on several dates. Thus, the Trustee had in effect made advances to the Plan as follows: $8,972.11 on December 27, 1978; $126,800.63 on January 3, 1979; $16,049.70 on January 8, 1979; $5,935.50 on January 9, 1979; and $4,591.15 on January 26, 1979. No interest was charged by the Trustee on said advances.

3. The applicant represents that the extension of credit by the Trustee to the Plan satisfied the criteria of section 408(a) of the Act because: (1) it allowed the Plan to borrow money on an interest free basis; (2) it allowed the Plan to meet its financial obligations and (3) it resulted in no financial gain to the Trustee.

Notice to Interested Persons

Within ten days of the publication of the Notice of Pendency in the Federal Register, notice of this request will be posted at each worksite of the Employer and will be sent by mail to all non-working participants. The notice will include a copy of the Notice of Pendency along with a statement advising interested persons of their right to comment and request a hearing within the time period set forth in the notice proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the following interest free loans of money made by the Trustee to the Plan: $8,972.11 on December 27, 1978; $126,800.63 on January 3, 1979; $16,049.70 on January 8, 1979; $5,935.50 on January 9, 1979; and $4,591.15 on January 26, 1979.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of August, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27890 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-48; Exemption Application No. D-974]

Exemption From the Prohibitions for Certain Transactions Involving John E. Mitchell Co. Employees Pension Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption allows purchase by the John E. Mitchell Company (JEMCO) of certain residual royalty rights from the John E. Mitchell Company Employees Pension Plan (the Plan).

FOR FURTHER INFORMATION CONTACT: Stephen Elkins of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C—4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 13, 1979 notice was published in the Federal Register (44 FR 40953) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for a transaction described in an application filed by JEMCO and by Mercantile National Bank. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. No public comments were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited

transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the particpants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) of the Act, and section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to purchase by JEMCO of certain residual royalty rights from the Plan, as described in the application for exemption, if such purchase is for the fair market value of such rights, such value to be determined by the Plan fiduciary as of the date of the transaction, but in no event shall the sales price of such royalty rights be less than $46,212.20.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of August 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79–27891 Filed 9–6–79; 8:45 am]

BILLING CODE 4510–29–M

Office of the Secretary

[TA–W–5859]

Algoma Preparation Plant, United Pocahontas Coal Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 13, 1979 in response to a worker petition received on August 8, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers cleaning metallurgical coal at the Algoma Preparation Plant of United Pocahontas Coal Company, Algoma, West Virginia.

The attorney for the petitioners requested in a letter that the petition be withdrawn. On the basis of this request, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 29th day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79–27722 Filed 9–6–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5660]

Ansewn Shoe Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 27, 1979 in response to a worker petition received on June 26, 1979 which was filed on behalf of workers and former workers producing men's and women's shoes at the Ansewn Shoe Company, Bangor, Maine. It is concluded that all of the requirements have been met.

U.S. imports of nonrubber footwear increased absolutely and relative to domestic production in 1978 compared to 1977 and in the first quarter of 1979 compared to the first quarter of 1978.

A Department of Labor survey revealed that a major customer of Ansewn increased purchases of imported men's and women's shoes while decreasing purchases from Ansewn in the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and women's shoes produced at the Ansewn Shoe Company, Bangor, Maine contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Ansewn Shoe Company, Bangor, Maine who became totally or partially separated from employment on or after January 12, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of August 1979.

James F. Taylor,

Director, Office of Foreign Economic Research.

[FR Doc. 79–27723 Filed 9–6–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5667]

Baker Marine Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 28, 1979 in response to a worker petition received on June 19, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing offshore self-elevating (jack-up) drilling rigs, gear units, and jacks at the Baker Marine

Corporation, Ingleside, Texas. The investigation revealed that the firm operates two plants, located in Ingleside and Corpus Christi, Texas. The terms "jacks" and "gears units" are used interchangeably to identify the mechanisms which raise and lower the main platform on a self-elevating off shore drilling rig. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

No offshore jack-up drilling rigs were imported into the United States during 1977, 1978, or the first six months of 1979. During this same period, the Baker Marine Corporation did not bid on domestic contracts against foreign manufacturers of offshore drilling rigs.

Layoffs which occurred at the Ingleside and Corpus Christi plants during June and July 1979 have resulted from normal down-time between projects and are expected to be of short duration. Between February and July 1979, the Baker Marine Corporation completed several projects at the Ingleside and Corpus Christi, Texas plants; the company expects to begin a number of new projects at these facilities within the next two months. Although the Baker Marine Corporation plans to import a small number of jack-up rigs from its licensee in Singapore, these rigs are not scheduled for delivery to the United States until later this year. If production and employment at the Ingeside and Corpus Christi plants do not increase in the near future as anticipated, workers at the Baker Marine Corporation may submit a new petition for trade adjustment assistance.

Conclusion

After careful review, I determine that all workers at the Baker Marine Corporation, Ingleside, Texas, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27724 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5749]

Bowling & Hildebrand Trucking Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 17, 1979 in response to a worker petition received on June 25, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers of Bowling and Hildebrand Trucking Company, Raleigh County, West Virginia, engaged in hauling coal. The investigation revealed that the location of the petitioners, for identification purposes, is Whitby, West Virginia.

Bowling and Hildebrand Trucking Company is engaged in providing the service of transporting coal by truck from a customer's mine to a tipple.

Thus, workers of Bowling and Hildebrand Trucking Company do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Bowling and Hildebrand Trucking Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Bowling and Hildebrand Trucking Company and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting coal by truck at Bowling and Hildebrand Trucking Company are employed by that firm. All personnel actions and payroll transactions are controlled by Bowling and Hildebrand Trucking Company. All employee benefits are provided and maintained by Bowling and Hildebrand Trucking Company. Workers are not, at any time, under employment or supervision by customers of Bowling and Hildebrand Trucking Company. Thus, Bowling and Hildebrand Trucking Company, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Bowling and Hildebrand Trucking Company, Whitby, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27725 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5729]

Clairmont Preparation Plant, Royal Coal Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 10, 1979 in response to a worker petition received on June 15, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers cleaning metallurgical coal at the Clairmont Preparation Plant of Royal Company, Clairmont, West Virginia. It is concluded that all of the requirements have been met.

U.S. imports of metallurgical coal are negligible. However, in accordance with section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Therefore, imports of coke as well as imports of metallurgical coal should be considered in determining import injury to workers producing metallurgical coal.

U.S. imports of coke increased from 1,311 thousand tons in 1976 to 1,829 thousand tons in 1977, and to 5,722 thousand tons in 1978. U.S. imports increased to 537 thousands tons in the first quarter of 1979 compared to 458 thousand tons in the first quarter of 1978.

Relative to domestic production, imports of coke increased from 2.2 percent in 1976 to 3.4 percent in 1977, and increased to 11.8 percent in 1978.

A Department survey established that one major customer increased imports of coke from 1977 to 1978, and in the first half of 1979 compared to the first half of 1978, while reducing purchases of metallurgical coal from the Royal Coal Company. Another major customer reduced purchases from Royal Coal Company during the same period as a result of declines in its own sales of metallurgical coal to domestic steel producers which had increased imports of coke. Collectively, these customers accounted for a substantial portion of the decline in the Royal Coal Company's sales during the January 1977—June 1979 period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal produced at the Clairmont Preparation Plant of Royal Coal Company, Clairmont, West Virginia, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Clairmont Preparation Plant of Royal Coal Company, Clairmont, West Virginia, who became totally or partially separated from employment on or after March 30, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27726 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5706]

Federal Glass Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on July 5, 1979 which was filed by the American Flint Glass Workers Union on behalf of workers and former workers producing machine made tableware at Federal Glass Company, Columbus, Ohio. It is concluded that all of the requirements have been met.

Value of U.S. imports of machine made glassware increased both absolutely and relative to domestic shipments in 1978 from 1977.

A customer survey revealed customers who reduced purchases from the subject firm and increased purchases of imported machine made glassware in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the machine made tableware produced at Federal Glass Company, Columbus, Ohio contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Federal Glass Company, Columbus, Ohio (including its 26 regional sales offices listed hereunder) who became totally or partially separated from employment on or after September 17, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

New York, N.Y., Chicago, Ill., St. Louis, Mo., Minneapolis, Minn., Baltimore, Md., Boston, Mass., Philadelphia, Pa., Pittsburgh, Pa., Cincinnati, Ohio, Cleveland, Ohio, Detroit, Mich., Syracuse, N.Y., Charlotte, N.C., New Orleans, La., Miami, Fla., Atlanta, Ga., Orlando, Fla., Memphis, Tenn., Dallas, Tex., Houston, Tex., Kansas City, Mo., Los Angeles, Calif., Phoenix, Ariz., San Francisco, Calif., Columbus, Ohio, Montvale, N.J.

Signed at Washington, D.C. this 29th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning

[FR Doc. 79-27727 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5504]

Georgia Pacific Corp., Woodland Division Pulp and Paper Mill; Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 7, 1979, applicable to all workers engaged in the production of newsprint at the Georgia Pacific Corporation, Woodland Division pulp and paper mill, Woodland, Maine. The Notice of Certification was published in the Federal Register on August 14, 1979 (44 FR 47631-32).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The review of the case revealed that 52 layoffs occurred on December 22 and 23, 1979. These layoffs were not covered by the impact date of December 24, 1978.

The intent of the certification is to cover all workers who were affected by the decline in production of newsprint at the Georgia Pacific Corporation, Woodland Division pulp and paper mill, Woodland, Maine, related to import competition. The certification, therefore, is revised providing a new impact date of December 15, 1978.

The revised certification applicable to TA-W-5504 is hereby issued as follows:

All workers engaged in the production of newsprint at the Georgia Pacific Corporation, Woodland Division pulp and paper mill, Woodland, Maine, who became totally or partially separated from employment on or after December 15, 1978, are eligibile to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27729 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5684]

Hornell Garments, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 2, 1979 in response to a worker petition received on June 26, 1979 which was filed on behalf of workers and former workers producing ladies' coats and raincoats at Hornell Garments, Inc., Brooklyn, New York. The investigation

revealed that the firm only produces ladies' raincoats. It is concluded that all of the requirements have been met.

The ladies' raincoats produced by Hornell Garments are included in the import and production category Women's, Girls' and Infants' Raincoats. U.S. Imports in this category increased both absolutely and relative to domestic production in 1978 compared to 1977.

A survey of Hornell Garments' major manufacturers was conducted. The survey revealed that manufacturers, representing a significant portion of Hornell Garments' 1979 sales decline, decreased purchases from Hornell Garments and increased purchases of imported ladies' raincoats in the first half of 1979 compared to the same period in 1978.

A secondary survey was conducted for the major manufacturers who decreased purchases from Hornell Garments and experienced a decline in their sales of ladies' raincoats. The survey revealed that some customers decreased purchases of domestically produced women's coats and jackets (including raincoats) and increased purchases of imported women's coats and jackets (including raincoats) in 1978 compared to 1977, and in the first half of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' raincoats produced at Hornell Garments, Inc., Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Hornell Garments, Inc., Brooklyn, New York who become totally or partially separated from employment on or after June 22, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27730 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown, below, not later than September 18, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 18, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Firestone Tire & Rubber Company (URW)	South Gate, Calif	8/27/79	8/21/79	TA-W-5,923	Bias-ply passenger tires and bias-ply truck tires.
Max Kirmayer & Sons, Inc. (company)	Brooklyn, N.Y	8/27/79	8/17/79	TA-W-5,924	Mens's trousers.
Longtable Enterprises, Inc. (company)	Greensburg, Pa	8/27/79	8/23/79	TA-W-5,925	Ladies' dresses and sportswear.
Outboard Marine Corp. Evinrude Motors (workers).	Milwaukee, Wis	8/27/79	8/16/79	TA-W-5,926	Outboard motors.
Patton Shirt Manufacturing Co., Inc. (ILGWU)	Patton, Pa	8/27/79	8/21/79	TA-W-5,927	Ladies' and men's shirts.
Premier Shoe Products (company)	Wilkes-Barre, Pa	8/27/79	8/21/79	TA-W-5,928	Shoe straps (womens).
SPN Sportswear Co., Inc. (company)	Mount Pleasant, Pa	8/27/79	8/23/79	TA-W-5,929	Ladies' dresses and sportswear.
The Lamson & Sessions Co. (IAM)	Birmingham, Ala	8/27/79	8/14/79	TA-W-5,930	Threaded screws and nuts.
Uniroyal, Inc. (Co. Attorney)	Dublin, Ga	8/27/79	8/22/79	TA-W-5,931	Shoes.
Wagner Industries, Inc. (IAM)	Reading, Mich	8/27/79	8/17/79	TA-W-5,932	Wire harnesses.

[FR. Doc. 79-27728 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5835]

Pat-Jo Blouse Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 10, 1979 in response to a worker petition received on August 6, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's sportswear at Pat-Jo Blouse Company.

The petitioner, the International Ladies' Garment Workers' Union,

subsequently requested withdrawal of its petition. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 23rd day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-27731 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5713]

Philip Gurian Sons, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on July 2, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses, skirts, slacks, jeans, and blouses at the Hometown plant of Philip Gurian Sons, Incorporated, Tamaqua, Pennsylvania. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's dresses, skirts, slacks, shorts, blouses, and shirts increased in 1978 from 1977 and decreased in the first quarter of 1979 compared to the first quarter of 1978.

Purchases of imported women's apparel by Philip Gurian increased in 1978 from 1977. A Department survey revealed that surveyed customers had reduced purchases from Philip Gurian and had increased purchases of imported women's apparel in 1978 from 1977 and in January-May 1979 compared to the corresponding period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's dresses, skirts, slacks, jeans, and blouses produced at the Hometown plant of Philip Gurian Sons, Incorporated, Tamaqua, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Hometown plant of Philip Gurian Sons, Incorporated, Tamaqua, Pennsylvania who became totally or partially separated from employment on or after August 26, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27732 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-32-M

[TA-W-5671]

Marlin Knit, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 28, 1979 in response to a worker petition received on June 25, 1979 which was filed on behalf of workers and former workers producting ladies' sweaters at Marlin Knit, Incorporated, Brooklyn, New York. It is concluded that all of the requirements have been met.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production from 1975 to 1976. Imports of sweaters increased in 1977 as compared to the average level of imports for the years 1974 through 1976. The ratio of imports of sweaters to domestic production (IP ratio) exceeded 140 percent in 1976 and in 1977. The IP ratio in 1977 was higher than the average IP ratio for the period 1974 through 1976.

The Office of Trade Adjustment assistance conducted a survey of manufacturers for which Marlin did contract work. Some manufacturers, which had utilized Marlin in 1977, placed no orders from Marlin in 1978 and increased their purchases of imported ladies' sweaters and their use of foreign contractors in 1978 compared to 1977.

A survey was also conducted of the customers of those manufacturers which experienced decreasing sales of ladies' sweaters from 1977 to 1978 and which decreased contract work with Marlin during that period. Customers of these manufacturers decreased purchases of ladies' sweaters from domestic sources and increased purchases of imported ladies' sweaters in 1978 compared to 1977. Workers of some of these manufacturers have been certified as eligible to apply for trade adjustment assistance benefits.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' sweaters produced at Marlin Knit, Incorporated, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Marlin Knit, Incorporated, Brooklyn, New York who became totally or partially separated for employment on or after June 16, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27733 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5654]

Midway Shake Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 26, 1979 in response to a worker petition received on June 14, 1979 which was filed on behalf of workers and former workers producing cedar shingles and shakes at Midway Shake

Company, Tillamook, Oregon. It is concluded that all of the requirements have been met.

U.S. imports of red cedar shingles and shakes increased both absolutely and relative to domestic production during 1978 compared to 1977. Imports increased absolutely during the first quarter of 1979 compared to the first quarter of 1978.

Layoffs at Midway Shake Co. resulted from losses of sales to the firm's major customer, a broker of cedar shakes and shingles. A survey of the broker's customers was conducted by the Department. Survey results revealed that in 1978 customers reduced purchases from the broker while increasing purchases of imported cedar shakes and shingles. Survey results further revealed that the broker's customers increased purchases of imported shakes and shingles during the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with cedar shingles and shakes produced at Midway Shake Company, Tillamook, Oregon contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Midway Shake Company, Tillamook, Oregon who became totally or partially separated from employment on or after June 6, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27734 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5699]

Petrocelli Clothes, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 26, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's suits at Petrocelli Clothes, Incorporated, New York, New York. Moda Contracting Corporation and Emkay Trouser Shop, which are divisions of Petrocelli Clothes, are included in the scope of this investigation. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased in the first quarter of 1979 compared to the first quarter of 1978.

Customers which reduced purchases from Petrocelli Clothes, Incorporated were surveyed regarding their purchases of men's suits. A number of customers which reduced purchases from Petrocelli in the first six months of 1979 compared with the first six months of 1978 increased their purchases of imported men's suits in the same period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits produced at Petrocelli Clothes, Incorporated, New York, New York and its divisions, Moda Contracting Corporation and Emkay Trouser Shop, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Petrocelli Clothes, Incorporated, New York, New York and its divisions, Moda Contracting Corporation and Emkay Trouser Shop, who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27735 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5295]

Joseph J. Piertrafesa Co., Inc.; Affirmative Determination Regarding Application for Reconsideration

On July 31, 1979, the petitioning union requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance for workers and former workers of Joseph J. Piertrafesa Company, Inc., Syracuse, New York. This determination was published in the **Federal Register** on July 6, 1979, (44 FR 39632).

The petitioning union claims that Joseph J. Piertrafesa Company's major manufacturer switched to a less expensive contractor in order to meet import price competition. The petitioning union also claims that retail customers of Joseph J. Piertrafesa also decreased their purchases because of import price competition.

Conclusion

After review of the application, I conclude that although a shift by Piertrafesa's customer to a domestic contractor producing less expensive suits provides no basis for certification. The claim of the petitioning union with respect to retail customers shifting to imported suits is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27736 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5674]

Shaw Manufacturing, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 28, 1979 in response to a worker petition received on June 26, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport shirts and jackets at Shaw Manufacturing, Incorporated, Los Angeles, California. The investigation revealed that the plant also produced ladies' shirts. It is concluded that all of the requirements have been met.

Evidence developed during the course of the investigation revealed that workers at Shaw Manufacturing, Incorporated were engaged in employment related to the production of men's sport shirts and jackets and ladies' shirts. The workers were used interchangeably between product lines and were not separately identifiable by product line.

Sales and production of ladies' shirts increased at Shaw Manufacturing, from 1977 to 1978 and in the first half of 1979 compared to the same period of 1978.

Men's sport shirts constituted the majority of Shaw's contract work in 1977. All men's sport shirt production had ceased by the end of 1978.

U.S. imports of men's and boys' woven sport shirts increased both absolutely and relative to domestic production in 1978 compared to 1977 and increased absolutely in the first quarter of 1979 compared to the first quarter of 1978. U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased absolutely from 1977 to 1978.

The major manufacturer for whom Shaw Manufacturing produced men's sport shirts substantially increased its imports of men's sport shirts and decreased its contract work with Shaw in 1978 compared to 1977 and in the first half of 1979 as compared to the same period in 1978. This manufacturer's imports of men's sport shirts became an increasing proportion of its total sales of men's shirts form 1977 to 1978 and during the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sport shirts produced at Shaw Manufacturing, Incorporated, Los Angeles, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Shaw Manufacturing, Incorporated, Los Angeles, California who became totally or partially separated from employment on or after June 21, 1978 and before July 31, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers of Shaw Manufacturing, Incorporated, Los Angeles, California who became totally or partially separated from employment on or after July 31, 1979 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27737 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5675]

Songo Shoe Manufacturing Corp.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 28, 1979, in response to a worker petition received on June 25, 1979, which was filed on behalf of workers and former workers producing athletic footwear, and men's and women's dress and casual boots at the Portland, Maine plant of Songo Shoe Manufacturing Corporation. It is concluded that all of the requirements have been met.

U.S. imports of athletic footwear increased absolutely and relatively in 1977 compared to 1976.

U.S. imports of men's dress and casual footwear, except athletic, increased absolutely and relatively in 1977 compared to 1976 and increased relatively in 1978 compared to 1977.

U.S. imports of women's dress and casual footwear, except athletic, increased relatively in 1977 compared to 1976, increased absolutely and relatively in 1978 compared to 1977 and further increased in the first quarter of 1979 compared to the same period of 1978.

A survey of the customers of Songo Shoe revealed that customers increased purchases of imported athletic footwear and men's and women's dress and casual footwear and decreased purchases of these products from Songo Shoe Manufacturing Company in 1978 compared to 1977 and in the first half of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with athletic footwear and men's and women's dress and casual footwear produced at the Portland, Maine plant of Songo Shoe Manufacturing Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Portland, Maine plant of Songo Shoe Manufacturing Corporation who became totally or partially separated from employment on or after June 19, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27738 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5702]

Tenco Division, Coca Cola Bottling Co.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirement of section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on July 2, 1979 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers on behalf of workers and former workers producing instant coffee at the Linden, New Jersey plant of the Tenco Division of the Coca Cola Bottling Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Processing of instant coffee at the Linden plant, measured in quantity, increased during the third and fourth quarters of 1978 compared to the previous quarters. Processing also increased during the first two quarters

of 1979 compared to the first two quarters of 1978.

Layoffs at the Linden plant in 1979 are expected to be temporary. Declines in employment are attributable to declines in activity in the packaging department; the packaging department packages coffee processed at Linden, coffee processed and sold by other manufacturers, and imported coffee.

Conclusion

After careful review, I determine that all workers of the Linden, New Jersey plant of the Tenco Division of the Coca Cola Bottling Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27739 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5558]

Tygart Coal Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 12, 1979 in response to a worker petition received on June 7, 1979 which was filed on behalf of workers and former workers producing coal at the Tygart Coal Company in Greenbrier County, West Virginia. The investigation revealed that the mine primarily produces steam coal. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produces by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Tygart Coal Company produces both steam and metallurgical coal as a labor contractor for the mine's operator who holds the mining permit. The production of steam grade coal accounts for the majority of the mine's output. All of the coal is shipped to the operator's facilities where the coal is graded and from which the coal is shipped to the customers of the operator. The majority of the operator's total 1978 sales of coal were exported. The operator stated that most of their sales are of unwashed coal. Because of cost factors caused by regulations imposed by the Environmental Protection Agency, unwashed coal is difficult to sell domestically. Imports of coal, therefore, would not have adversely affected this portion of the operator's sales. The majority of the remaining output was steam coal which was sold to domestic utilities. The ratio of imports of bituminous (steam grade) coal to domestic production has consistently been less than 0.5 percent from 1974 through the first quarter of 1979. The U.S. has extremely large reserves of steam grade coal. U.S. exports of steam grade coal are several times greater than U.S. imports of steam grade coal.

Conclusion

After careful review, I determine that all workers of the Tygart Coal Company in Greenbrier County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27740 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5733]

Valli Fashions Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 10, 1979 in response to a worker petition received on June 29, 1979 which was filed on behalf of workers and former workers producing ladies' coats at Valli Fashions Company, Inc., Hoboken, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased in 1978 compared to 1977.

Valli Fashions Company, Inc. produces ladies coats for one manufacturer. This manufacturer does not import ladies' coats and awards all production of ladies' coats to domestic contractors. Since this manufacturer decreased contracts with Valli Fashions during the period under investigation and the manufacturer's sales of ladies' coats decreased in the first half of 1979 compared to the first half of 1978, a secondary survey was conducted of customers who decreased purchases from this manufacturer. All of these customers increased purchases of imported ladies' coats in the first half of 1979 compared to the first half of 1978. As well as decreasing purchases from Valli Fashions' manufacturer, a significant number of these customers decreased purchases from other domestic sources in the first half of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats produced at Valli Fashions Company, Inc., Hoboken, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Valli Fashions Company, Inc., Hoboken, New Jersey engaged in employment related to the production of ladies' coats who became totally or partially separated from employment on or after June 25, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27741 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5798]

W. W. Williams Co. of Pennsylvania, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 30, 1979, in response to a worker petition received on July 23, 1979, which was filed on behalf of workers and former workers of W. W. Williams Company, Beckley, West Virginia, engaged in selling and repairing heavy equipment used in coal mining. The investigation revealed that the petitioners are employed by the W. W. Williams Company of Pennsylvania, Incorporated, a subsidiary of the W. W. Williams Company.

The W. W. Williams Company of Pennsylvania, Incorported is engaged in providing the service of repairing construction equipment used in the coal mining industry and selling parts for such equipment.

Thus, workers of the W. W. Williams Company of Pennsylvania, Incorporated do not produce an article within the meaning of section 222 (3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from the parent firm, a firm otherwise related to the W. W. Williams Company of Pennsylvania, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. The W. W. Williams Company of Pennsylvania, Incorporated and its customers have no controlling interest in one another. The parent firm does not produce an article.

All workers at the Beckley, West Virginia facility of the W. W. Williams Company of Pennsylvania, Incorporated are employed by that firm. All personnel actions an payroll transactions are controlled by the W. W. Williams Company of Pennsylvania, Incorporated. All employee benefits are provided and maintained by the W. W. Williams Company of Pennsylvania, Incorporated. Workers are not, at any time, under employment or supervision by customers of the W. W. Williams Company of Pennsylvania, Incorporated. Thus, the W. W. Williams Company of Pennsylvania, Incorporated, and not any of its customers, must be considered to be the "workers' firm."

Conclusion

After careful review, I determine that all workers of the Beckley, West Virginia facility of the W. W. Williams Company of Pennsylvania, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27742 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5701]

Beach Queen Sportswear, Brooklyn, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 29, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of former workers producing ladies' swimsuits at Beach Queen Sportswear, Brooklyn, New York. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey conducted by the Department revealed that customers surveyed who decreased purchases from Beach Queen Sportswear in 1978 and the first five months of 1979 relied principally upon other domestic suppliers to meet their requirements. Import purchases by surveyed customers amounted to an insignificant proportion of total purchases of ladies' swimsuits by those customers during 1977, 1978 and the first five months of 1979.

Conclusion

After careful review, I determine that all workers of Beach Queen Sportswear, Brooklyn, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27969 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5557]

Certification Regarding Eligibility To Apply for Adjustment Assistance; Correction

In Federal Register Doc. 79-24742 appearing on page 47181 in the Federal Register of August 10, 1979, Son-Lite Division was misspelled and should read Sun-Lite Division.

Signed at Washington, D. C., this 31st day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27977 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5454 and TA-W-5016]

Cobblers, Inc., Williamsport, Pa., Harrisburg, Pa., York, Pa., and Cobblers, Inc., Jersey Shore Division, Jersey Shore, Pa.; Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 and Section 221(a) of the Trade Act of 1974, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on June 22, 1979, applicable to all workers at the Williamsport, Harrisburg and York, Pennsylvania, facilities of Cobblers, Inc., (TA-W-5454). The Notice of Certification was published in the Federal Register on June 29, 1979, (44 FR 38012).

In an earlier determination relating to Cobblers, Inc., the Department issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of the Jersey Shore Division of Cobblers, Inc., Jersey Shore, Pennsylvania, (TA-W-5016). The Notice of Certification was published in the Federal Register on May 25, 1979, (44 FR 30490).

Subsequent to the publication of these notices, the Department, on its own motion, reopened the investigation into the petitions TA-W-5454 and TA-W-5016.

The initial investigation revealed that workers at the two production facilities

of Cobblers in Williamsport and Jersey Shore manufactured the same articles (i.e., women's shoes, boots and sandals) and that the sales outlets in Williamsport, Harrisburg and York, Pennsylvania, retailed articles manufactured in both facilities. Upon further investigation, it was determined that a significant number of workers transferred without separation from the Jersey Shore production facility, before its closing, to the Williamsport production facility which subsequently closed. It is consistent with the purposes of the Act that these workers be covered since increased imports of articles like or directly competitive with the articles produced by the workers contributed importantly to their separation. Consequently, workers in all the facilities in Williamsport, Harrisburg, York and Jersey Shore are considered to be workers of a single firm.

Conclusion

Based on a review of the entire record and in accordance with the provisions of the Act, it is concluded that the Williamsport, Harrisburg, York and Jersey Shore, Pennsylvania facilities of Cobblers, Inc., constitute a single firm for purpose of Section 222 of the Trade Act of 1974 and 29 CFR 90.2

The revised certification applicable TA-W-5454 and TA-W-5016 is hereby issued as follows:

All workers of the Williamsport and Jersey Shore, Pennsylvania, production facilities of Cobblers, Inc., and all workers of the Williamsport, Harrisburg and York, Pennsylvania, retail outlets of Cobblers, Inc., who became totally or partially separated from employment on or after October 1, 1978, but before June 1, 1980, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27971 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5273]

Figure Flattery, Inc., New York, N.Y.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 23, 1979 in response to a worker petition received on April 16, 1979 which was filed by the Intimate Apparel Workers' Union on behalf of workers and former workers producing men's briefs and supports at Figure Flattery, Incorporated, New York, New York. The investigation revealed that the plant produces primarily men's briefs. In the following determinations, without regard to whether any of the other criteria have been met for workers engaged in the cutting of men's briefs, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The New York, New York plant of Figure Flattery, Incorporated was engaged in all phases of production of men's briefs until production at the plant ceased in December 1978. All cutting for the company was transferred domestically and is now done at its El Paso, Texas plant. All sewing and finishing operations are now performed at company plants in Mexico.

For workers engaged in employment related to the production of men's briefs, all of the criteria have been met.

Imports of men's and boys' underwear, knit and Not-knit, increased absolutely and relative to domestic production in 1978 compared to 1977.

Production of men's briefs at the Mexico plant of Figure Flattery increased in the January through May period of 1979 compared to the same period of 1978. Production of men's briefs at the New York, New York plant of Figure Flattery ceased in December 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's briefs produced at Figure Flattery, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Figure Flattery, Incorporated, New York, New York, except those engaged in cutting operations who became totally or partially separated from employment on or after November 26, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27972 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5696]

Harry Fisher Corp., Philadelphia, Pa., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 26, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's topcoats and overcoats at Harry Fisher Corporation, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of men's and boys' outercoats and jackets declined in quantity in 1978 from 1977 and during January–June 1979 compared to January–June 1978.

Sales of Men's and boys' outercoats and raincoats by Harry Fisher Corporation increased in quantity and value in 1978 compared to 1977 and during January–June 1979 compared to January–June 1978.

Conclusion

After careful review, I determine that all workers of Harry Fisher Corporation, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27973 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5681]

Hialeah Fashions, Inc., Hialeah, Fla.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 29, 1979 in response to a worker petition received on June 15, 1979 which was filed on behalf of workers and former workers producing women's blouses, dresses, and sportswear at Hialeah Dress, Incorporated, Hialeah, Florida. The investigation revealed that the name of the company is Hialeah Fashions, Incorporated and that the company primarily produced women's blouses. It is concluded that all of the requirements have been met.

Evidence developed in the course of the investigation revealed that U.S. imports of women's, misses', and children's blouses and shirts increased absolutely from 1977 to 1978 and decreased during the first quarter of 1979 compared to the first quarter of 1978.

Hialeah Fashions did contract work for women's apparel manufacturers. A survey of customers of Hialeah (apparel manufacturers) revealed that Hialeah's major customer in 1977 discontinued all contract work with Hialeah during 1978. A survey of retail outlets who were customers of the manufacturer indicated that the retail outlets reduced purchases of women's apparel from the manufacturer during 1978 while increasing purchases of apparel from foreign sources.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's apparel produced at Hialeah Fashions, Incorporated, Hialeah, Florida contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Hialeah Fashions, Incorporated, Hialeah, Florida who became totally or partially separated from employment on or after June 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27974 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 18, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 18, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Signed at Washington, D.C. this 30th day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Capricorn Ironworks, Inc. (I.U.W.S.W.A.)	Bronx, N.Y.	8/21/79	8/9/79	TA-W-5,933	Welding contractors for shipbuilding.
Commerical Carriers, Inc., Nashville Terminal (Teamsters).	Nashville, Tenn	8/27/79	8/21/79	TA-W-5,934	Transport of automobiles.
Congress Textile Printers, Inc. (ACTWU)	Hawthorne, N.J	8/27/79	8/16/79	TA-W-5,935	Lacquer duco and flock paint for fabrics.
Dexter Buick GMC Truck Co., Inc. (workers)	Providence, R.I	8/15/79	8/4/79	TA-W-5,936	Auto dealership.
Indian Creek Coal Co. D.B.A. M & B Coal Company (U.M.W.A.).	Welch, W. Va	8/20/79	8/12/79	TA-W-5,937	Mining of coal.
Key Chrysler Plymouth (workers)	Madison, Tenn	8/27/79	8/20/79	TA-W-5,938	Auto dealership.
Lexington Metal Products Company (workers)	Lexington, Tenn	8/27/79	8/20/79	TA-W-5,939	Auto parts, Chrysler locks, AMC regulators, Chrysler seat recliners.
Philtron Corp. (workers)	Whitman, Mass	8/27/79	8/15/79	TA-W-5,940	Light fixtures and wood products.
Robinson Phillips Coal Co., Ace Mine (UMWA).	Pineville, W. Va	8/27/79	8/23/79	TA-W-5,941	Mining of coal.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Robinson Phillips Coal Co., Carol Mine (UMWA).	Pineville, W. Va.	8/27/79	8/23/79	TA-W-5,942	Mining of coal.
Robinson Phillips Coal Co., Elk Lick Mine #64 (UMWA).	Pineville, W. Va.	8/27/79	8/23/79	TA-W-5,943	Mining of coal.
Sarkes Tarzian, Inc., Tuner Div. (workers)	Bloomington, Ind	8/27/79	8/23/79	TA-W-5,944	TV tuners.
Simron Fuel Co., Twin Branch Mine (UMWA)	McDowell County, W. Va.	8/27/79	8/23/79	TA-W-5,945	Mining of coal.
Simron Fuel Co., Lobo Mine #1 (UMWA)	McDowell County, W. Va.	8/27/79	8/23/79	TA-W-5,946	Mining of coal.
Steven Ranson, Inc. (I.U.M.S.W.A.)	Newark, N.J.	8/21/79	8/9/79	TA-W-5,947	Conversion, repair, overhaul and maintenance of marine vessels.
Winn Branch Coal Company (workers)	Winn Branch, Ky.	8/21/79	8/13/79	TA-W-5,948	Mining of coal.
York Leather Fashion, Inc. (workers)	New York, N.Y.	8/27/79	8/20/79	TA-W-5,949	Ladies' and men's garments.

[FR Doc. 79-27970 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5490]

National Tanning & Trading Corp., Peabody, Mass.; Revised Determination on Reconsideration

On August 20, 1979, the Department of Labor granted administrative reconsideration of the negative determination which it had made on July 26, 1979, (44 FR 45796) pursuant to Section 223 of the Trade Act of 1974 for all workers at the National Tanning and Trading Corporation, Peabody, Massachusetts, regarding eligibility to apply for worker adjustment assistance.

In its reconsideration, the Department reviewed its investigative file and considered written and oral information provided by National Tanning. The review revealed that although the supply of calfskins was tight, particularly in the first half of 1979, domestic skins were available, although their cost was significantly higher than in previous years. Two major customers of tanned and finished calfskin reported shifting to imported, tanned kidskins, a product directly competitive with calfskin. A third important customer reduced its purchases of calfskin from National in 1978 and in the first five months of 1979 compared to the same year earlier periods and increased imports of tanned calfskin. The tanning calfskin had accounted for some 25 percent of National Tanning's total shipments in 1977 and for a major portion of company profits. The switch by customers away from National Tanning's calfskin to imported kidskin had a significant impact on the company's profitability and sales.

U.S. imports of tanned and finished cattlehides increased absolutely and relative to domestic production in 1978 and the first quarter of 1979 compared to the same year earlier periods. Imports of tanned and finished calfskins increased absolutely and relatively in 1978 compared to 1977 and increased absolutely in the first quarter of 1979 compared to the same period in 1978. Further, imports of goat and kid finished leather increased in 1978 over 1977 and in the first six months of 1979 compared to the same period in 1978.

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised determination:

All workers of National Tanning and Trading Corporation, Peabody, Massachusetts, who became totally or partially separated from employment on or after March 21, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27975 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5773]

Paktron, Inc., Lynchburg, Va.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 25, 1979 in response to a worker petition received on July 12, 1979 which was filed on behalf of workers and former workers producing capacitors at the Lynchburg, Virginia plant of Paktron, Incorporated. The investigation revealed that the plant produces film capacitors. It is concluded that all of the requriements have been met.

U.S. imports of paper and film capacitors increased from 1976 to 1977, from 1977 to 1978, and during the first half of 1979 compared to the first half of 1978. The ratio of imports to domestic production has increased every year since 1975.

Company imports of the type of capacitor produced at the Lynchburg plant increased nearly 30 percent in the last half of 1978 compared to the last half of 1977 and then tripled in the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with film capacitors produced at the Lynchburg, Virginia plant of Paktron, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Lynchburg, Virginia plant of Paktron, Incorporated who became totally or partially separated from employment on or after June 25, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27976 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

Secretary's Committee on Veterans' Affairs; Meeting

Announcement is made of the following Committee meeting:

Name: Department of Labor Secretary's Committee on Veterans' Affairs.
Date: September 24, 1979.
Place: Secretary's Conference Room, S2508 (South)
Time: 1330.
Proposed agenda: Introduction of members and guests. Reports on DOL activities for veterans. Open discussion.

Agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the Secretary's meeting.

Purpose of meeting: The Committee will receive reports on DOL's activities for veterans, and receive and respond to comments from guests.

Meeting of the Secretary's Committee on Veterans' Affairs is open to the public.

Any member of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairperson may allow public presentation of oral statements at the meeting.

All communications regarding this Committee should be addressed to Dr. Dennis R. Wyant, Deputy Assistant Secretary for Veterans' Employment, Room 10008, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213.

Dennis R. Wyant,

Deputy Assistant Secretary for Veterans' Employment, Vice Chairperson, Secretary's Committee on Veterans' Affairs.

August 29, 1979.

[FR Doc. 79-27968 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-23-M

Advisory Committee on Construction Safety and Health; Full Committee Meeting and Meeting of the Subgroup on Health Standards

Notice is hereby given that the Subgroup on Health Standards of the Advisory Committee on Construction Safety and Health will meet on September 24 and 25, 1979 in Room S4215, New Department of Labor Building, 3rd Street and Constitution Avenue, NW., Washington, D.C. The September meeting dates announced in the August 10, 1979 **Federal Register** (44 FR 47183) are hereby changed. The meeting is open to the public and will begin at 9:30 a.m.

The Subgroup will thoroughly review OSHA health standards as they relate to the construction industry and will subsequently submit a report to the Advisory Committee on Construction Safety and Health containing their findings and including their recommendations.

The meeting agenda includes a discussion of major issues for the Subgroup report and presentations on the types of health hazards in construction.

The full Advisory Committee on Construction Safety and Health will meet on September 26, 1979 in Room S4215, Department of Labor Building, Washington, D.C.

The meeting is open to the public and will begin at 9:00 a.m.

The meeting agenda includes a status report from the Subgroup on Health Standards as well as status reports on Standards dealing with tunnels and roll over protective structures. The Committee will be briefed on standards priorities, regulatory analysis, and complaint procedures, and will hear an update on recent activities of OSHA's Task Force on Construction.

The Advisory Committee on Construction Safety and Health was established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the chairman, depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs—OSHA, 3rd Street and Constitution Avenue, NW., Washington, D.C., Room N-3635, Telephone 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 4th day of September 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-27879 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-26-M

Minimum Wage Study Commission Meeting

August 28, 1979.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following Commission meeting: Name: Minimum Wage Study Commission. Date: Sept. 11, 1979. Time: 10 a.m.—11th floor. Place: 1430 K St. NW, Washington, DC 20005.

Open admittance to the extent seating is available.

Original notification of this meeting appeared in the **Federal Register** July 25, 1979.

Proposed Agenda.—1. Research approach for MWSC study of selected FLSA exemptions including Handicapped; 2. Presentation of contracted research; 3. New Business.

Next meeting of the Commission will be held Tuesday, Oct. 9, 1979.

All communications regarding this Commission should be addressed to: Mr. Louis McConnell, Executive Director, 1430 K St. NW, Washington, DC 20005, (202) 376-2450.

Louis McConnell,

Executive Director.

[FR Doc. 79-27903 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-74]

Intent To Grant Exclusive Patent License

Notice is hereby given that consideration is being given to the grant to the Licensing Management Corporation, New York, New York, of a limited, exclusive, revocable license to practice the invention described in U.S. Patent No. 3,632,242 for "Apparatus for Making Diamonds", issued on January 4, 1972, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 C.F.R. § 1245.2, as revised April 1, 1972. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 30 days of the date of this Notice, the Chairman, Inventions and Contributions Board, NASA, Washington, DC., 20546, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: August 31, 1979.

S. Neil Hosenball,

General Counsel.

[FR Doc. 79-27882 Filed 9-6-79; 8:45 am]

BILLING CODE 7510-01-M

[Notice 79-75]

Intent To Grant Exclusive Patent Licenses

Notice is hereby given of intent to grant to Dr. John C. Evans, Jr. d.b.a. Energy Resources Group, Ltd., Ravenna, Ohio, revocable, exclusive licenses to practice the inventions described in (1) U.S. Patent No. 3,894,289 for "High Power Laser Apparatus and System", issued on July 8, 1975, (2) U.S. Patent No. 3,806,835 for "Rapidly Pulsed, High Intensity, Incoherent Light Source", issued on April 23, 1974, (3) U.S. Patent No. 4,082,569 for "Solar Cell Collector", issued on April 4, 1978, (4) U.S. Patent No. 4,122,214 for "Solar Cell Collector and Method for Producing Same", issued October 24, 1978, (5) U.S. Patent No. 4,084,985 for "Method for Producing Solar Energy Panels by Automation", issued April 18, 1978, (6) U.S. Patent No. 4,104,091 for "Application of Semiconductor Diffusants to Solar Cells by Screen Printing", issued August 1, 1978, (7) U.S. Patent No. 4,104,084 for "Solar Cells Having Integral Collector Grids", issued August 1, 1978, and (8) U.S. Patent No. 4,135,290 for "Method for Fabricating Solar Cells Having Integrated Collector Grids", issued January 23, 1979. All eight above patents were issued to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive licenses will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR § 1245.2, as revised April 1, 1972. NASA will grant the exclusive licenses unless, within 30 days of the date of this Notice, the Chairman, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive licenses; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive licenses.

Dated: August 31, 1979.

S. Neil Hosenball,

General Counsel.

[FR Doc. 79-27883 Filed 9-6-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON AIR QUALITY

Meeting

The National Commission on Air Quality hereby gives notice of a meeting scheduled for October 5. The meeting will be in Room 4200 of the Dirksen Senate Office Building, located at First Street, N.W., and Constitution Avenue, N.W., Washington, D.C., and will begin at 9:30 a.m.

The agenda for the meeting will include the following items:

1. Approval of the minutes of the August 6, 1979, Commission meeting.
2. Discussion of activities of the Commission's Research Committee.
3. Consideration of atmospheric deposition and acid precipitation, with presentations to be made by representatives of the Environmental Protection Agency, the Electric Power Research Institute, and the North Carolina State University.

Questions about the meeting should be directed to Mr. Morris A. Ward at (202) 245-6355.

William H. Lewis, Jr.

Director.

[FR Doc. 79-27836 Filed 9-6-79; 8:45 am]

BILLING CODE 6820-98-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 3:00 p.m. on Tuesday, September 18, 1979.

Agenda

Saturday, September 15

1. 2:00 P.M.—6:00 P.M.
Commission Discussion with the Executive Board and Members of the Interstate Conference of Employment Security Agencies (ICESA).
Break (6:00 P.M.)

Sunday, September 16

2. 10:00 A.M.—12:30 P.M.
Chairman Meeting with Staff Members. (Commissioners attendance *optional*)
Break (12:30 P.M.)

Monday, September 17

3. 9:30 A.M.—10:30 A.M.
Senator Russell Long (Louisiana) to speak to ICESA—Commission invited.
Note.—Senator Long invited by Chairman Cohen to speak to NCUC after ICESA speech.
4. 10:30 A.M.—5:30 P.M.
Commission Members Attending Various Meetings and Workshops of ICESA.
Adjourn (5:30 P.M.)

Tuesday, September 18

5. 8:30 A.M.—12:30 P.M.
Public Testimony
—Stewart Bailenson, Vice-President, James E. Frick, Inc. (8:30 A.M.)
—National Governor's Association (9:00 A.M.) Dave Arnold, Associate Director, NGA Employment and Vocational Training Program
—Don R. Bryant, Chairman, NGA Working Group on Unemployment Insurance and Deputy Director, Georgia Employment Security Agency
—U.S. Chamber of Commerce (10:00 A.M.) Stanley L. King, Assistant Vice President, American Telephone and Telegraph
—Michael Romig, Director of Human Resources and Employee Benefits, U.S. Chamber of Commerce
—Robert N. Skinner, Director, Indiana Employment Security Division (11:00 A.M.)
—Argyll Campbell, Director of Industrial Relations, Louisiana Assocation of Business and Industry (11:30 A.M.)
—Carl L. Brewster, Jr., Unemployment Insurance Director, Office of Employment Security of Louisiana (12:00 Noon)
Break (12:30 P.M.)
6. 1:45 P.M.—3:00 P.M.
Public Testimony
A Panel of employee representatives:
—Gordon Flory, Secretary Treasurer, Louisiana AFL-CIO
—Richard McHugh, Esquire, Representing the Arkansas AFL-CIO (1:45 P.M.)
Adjourn (3:00 P.M.)

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, Room 440, 1815 Lynn Street, Rosslyn, Va. 22209, (703) 235-2782.

Signed at Washington, D.C. this 30th day of August, 1979.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-27967 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended,

Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Subcommittee on Acquisition and Maintenance of the Advisory Committee for Ocean Sciences.
Date and time: September 26, 1979, 8:30 A.M. to 5:00 P.M., September 27, 1979, 8:30 A.M. to 5:00 P.M.
Place: National Science Foundation, Washington, DC 20550, Room 642.
Type of meeting: Closed.
Contact person: MS. Mary K. Johrde, Head, Office for Oceanographic Facilities and Support (OFS), National Science Foundation, Room 613, Washington, DC 20550, telephone (202) 632–4102.
Purpose of ad hoc subcommittee: To provide OFS expert advice concerning support of specific equipment items requested by major oceanographic institutions.
Agenda: Detailed review and evaluation of proposals for support of oceanographic equipment.
Reason for closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information; institutional financial data; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79–27954 Filed 9–7–79; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee for Ocean Sciences Research; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Ocean Sciences Research of the Advisory Committee for Ocean Sciences.
Date and time: September 27–28, 1979, 9:00 a.m. to 5:00 p.m. each day.
Place: Room 643, National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. M. Grant Gross, International Decade of Ocean Exploration Section, Room 606, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–7356.
Purpose of subcommittee: To provide the IDOE with additional expertise in the review and evaluation of large and intermediate-sized oceanographic research efforts.
Agenda: Final evaluation on proposals submitted to the IDOE Section.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79–27955 Filed 9–6–79; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Science Education; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Science Education.
Date & time: September 27, 1979—9:00 a.m. to 5:00 p.m., September 28, 1979—9:00 a.m. to Noon.
Place: Room 651, National Science Foundation, 651 Wisconsin Avenue, N.W., Washington, D.C. 20550 Telephone (202) 282–7947.
Type of meeting: Open.
Contact person: Dr. Alphonse Buccino, Office of Program Integration, Directorate for Science Education, National Science Foundation, Washington, D.C. 20550.
Summary minutes: May be obtained from the Contact Person, Dr. Alphonse Buccino, at the above address.
Purpose of committee: To provide advice on Science Education activities.
Agenda: General discussion of long-range planning and other Science Education issues.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79–27956 Filed 9–6–79; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Earth Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences.
Date and Time: September 24, 1979; 9:00 a.m. to 5:00 p.m.
Place: The National Science Foundation, Room 642, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550, Telehone (202) 632–4274.
Purpose of committee: To provide advice and recommendations concerning support for research in Earth Sciences.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79–27957 Filed 9–6–79; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Subcommittee on Ship Operations of the Advisory Committee for Ocean Sciences.
Date and time: September 25, 1979—9:00 A.M. to 5:00 P.M.
Place: National Science Foundation, Washington, D.C. 20550, Room 642.
Type of meeting: Closed.
Contact person: Ms Mary K. Johrde, Head, Office for Oceanographic Facilities and Support (OFS), National Science Foundation, Room 613, Washington, DC 20550, telephone (202) 632–4102.
Purpose of ad hoc subcommittee: To provide OFS expert advice concerning ship operations support requested by major oceanographic institutions.
Agenda: Detailed review and evaluation of proposals for support of oceanographic ships.
Reason for closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information; institutional financial data; and personal

information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79-27959 Filed 9-6-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Astronomy; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Astronomy.

Date & time:

September 26—8 pm to 10 pm.
September 27—9 am to 5 pm.
September 28—9 am to 12 noon.

Place: Arecibo Observatory, Arecibo, Puerto Rico

Type of meeting: Partially Closed. September 27, 2:00–4:00 p.m.

Contact person: Dr. William E. Howard, Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, D.C.

Summary Minutes: May be obtained from the contact person at the above stated address.

Purpose of committee: To provide advice and recommendatiaons concerning research programs, proposals, and projects in NSF funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning short range and long range plans in astronomy, including a recommendation of relative priorities.

Agenda:

September 26, 1979

I. Introductory Remarks
II. Minutes of Previous Meeting
III. Short Status Reports

September 27, 1979

A.M.—IV. Discussion of the Budget
V. Subcommittee Reports
P.M.—VI. Executive Session—Review of Proposals
VII. Discussion of Long Range Plans

September 28, 1979

VIII. NAIC Presentation
XI. Discussion of Problems in Astronomy
X. Critique of Meeting

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79-27961 Filed 9-6-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Ocean Sciences; Subcommittee on Ocean Sciences Research; Meeting Amendment

The original notice of meeting for the above named committee appeared in Vol. 44, No. 166 of the **Federal Register**, page 49815 on Friday, August 24, 1979. Please substitute the following portion of that meeting:

Agenda: Review of proposals submitted for a research project on Low Energy Benthic Boundary Layer Experiment (LEBBLE).

Please note that this agenda is for the meeting of September 11 and 12, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79-27963 Filed 9-6-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Ocean Sciences; Subcommittee on Ocean Sciences Research; Meeting Amendment

The original notice of meeting for the above named committee appeared in Vol. 44, No. 166 of the **Federal Register**, pages 49815 and 49816 on Friday, August 24, 1979. Please substitute the following portion of that meeting:

Agenda: Review of proposals submitted for large-scale ocean research on the following topics: September 10–11: Pacific Equatorial Dynamics (PEQUOD), September 12: Seasonal Equatorial Atlantic Experiment (SEQUAL), September 13–14: Biology and Eastern Equatorial Dynamics (BEED).

Please note that this agenda is for the meeting of September 10 through 14, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79-27962 Filed 9-6-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Earth Sciences; Geology and Geochemistry Subcommittees; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Earth Sciences, Geology and Geochemistry Subcommittees.

Date and time: September 27–28, 1979; 9:00 a.m. to 5:00 p.m. each day.

Place: The National Science Foundation, Rooms 321 and 338, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632–4274.

Purpose of committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals assoicated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79-27960 Filed 9-6-79; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee of the Advisory Committee for Science Education; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Science Education (subcommittee only).

Date & time: September 26, 1979—9:00 a.m. to 5:00 p.m.

Place: Room 651, National Science Foundation, 5225 Wisconsin Avenue, N.W., Washington, D.C. 20550, telephone (202) 282–7947.

Type of meeting: Open.

Contact person: Dr. Conrad Katzenmeyer, Office of Program Integration, Directorate for Science Education, National Science Foundation, Washington, D.C. 20550.

Summary minutes: May be obtained from the Contact Person, Dr. Conrad Katzenmeyer, at the above address.
Purpose of committee: To provide advice on Science Education activities.
Agenda: Evaluation of all Science Education programs.

Joyce F. Laplante,
Acting Committee Management Coordinator.
September 4, 1979.
[FR Doc. 79-27958 Filed 9-6-79; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-538]

Memphis State University; Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. R-127, issued to the Memphis State University (the licensee), for operation of the AGN-201 nuclear reactor located on the licensee's campus in Memphis, Tennessee.

The amendment would authorize an increase in the reactor's licensed maximum power level from 100 milliwatts (thermal) to 20 watts (thermal) for continuous operation and would authorize intermittent operation at power levels up to 1000 watts (thermal), in accordance with the licensee's request dated March 23, 1979, as supplemented August 3, 1979.

Prior to issuance of the proposed licensee amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By October 9, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate 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 recerence 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 withnesses.

A request for a hearing or a petition for leave to intervene shall 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, NW., Washington, D.C. by the 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 Robert Reid: (petitioner's name and telephone number); (date petition was mailed); (Memphis AGN-201); 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, D.C. 20555.

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 licensee's request dated March 23, 1979, as supplemented August 3, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland this 30th day of August 1979.

For the Nuclear Regulatory Commission.
Robert W. Reid,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.
[FR Doc. 79-27869 Filed 9-6-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Proposed Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-40, issued to Omaha Public Power District (the licensee), for operation of the Fort Calhoun Station, Unit No. 1 (the facility) located in Washington County, Nebraska.

In accordance with the licensee's application for amendment transmitted by letter dated July 17, 1979, the amendment would (1) authorize an increase in the current licensed power level from 1420 MWt to 1500 MWt, (2)

authorize the use of fuel from Exxon Nuclear Company, Inc., for Cycle 6 operation, and (3) authorize the use of Exxon Nuclear Company, Inc. analytical methods.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulation.

By October 9, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate 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 aspects(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, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the 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 Robert W. Reid: (petitioner's name and telephone number); (date petition was mailed); (Fort Calhoun); 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, D.C. 20555, and to Margaret R. A. Paradis, LeBoeuf, Lamb, Leiby and MacRae, 1757 N Street, NW., Washington, D.C. 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 amendment transmitted by letter dated July 17, 1979, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska.

Dated at Bethesda, Maryland, this 30th day of August 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-27755 Filed 9-6-79; 8:45 am]

BILLING CODE 7590-01-M

[NUREG 75/087]

Proposed Revision to the Standard Review Plan; Issuance and Availability

As part of the continual maintenance of the Standard Review Plan (SRP), the Nuclear Regulatory Commission has issued a proposed Revision 2 to SRP Section 8.3.1, "A–C Power Systems (Onsite)." A value/impact statement has been prepared in support of the proposed changes.

Public comments on this revision to the SRP and the supporting value/impact statement are solicited. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

This proposed revision, the supporting value/impact statement, and all comments that have been received by October 29, 1979 will be considered by the Regulatory Requirements Review Committee (RRRC). A summary of the RRRC meeting at which these changes are considered, the committee recommendations, and all of the associated documents and comments considered by the committee will be made publicly available prior to a decision by the Director of the Office of Nuclear Reactor Regulation on whether to implement these changes.

Copies of this proposed revision to the SRP and the supporting value/impact statement are available for public inspection at the NRC Public Document Room at 1717 H Street NW., Washington, D.C. Requests for single copies of this material or for placement on an automatic distribution list for single copies of future proposed revisions to the SRP should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of

Technical Information and Document Control.

Dated at Rockville, MD this 31st day of August 1979.

For the U.S. Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 79-27870 Filed 9-6-79; 8:45 am]

BILLING CODE 7590-01-M

Sales Policy for Regulatory Guides

Since the Regulatory Guide Series was instituted in 1972, printing and distribution costs have greatly increased. In order to reduce the burden on the taxpayer, the Nuclear Regulatory Commission (NRC) has made arrangements with the U.S. Government Printing Office (GPO) to become a consigned sales agent for certain NRC publications. Effective October 1, 1979, regulatory guides are being included in this sales program and may be purchased on a subscription or individual copy basis. This program will ensure the continued use of regulatory guides in an efficient and cost-effective manner.

Draft guides will continue to be furnished at no cost to those on the current distribution list for the appropriate division. NRC licenses will receive, also at no cost, a single copy of pertinent draft and active regulatory guides as they are issued. Otherwise, active regulatory guides issued after September 30, 1979, will be sent only to those who have made arrangements for a paid subscription. Both draft and active guides will be available in the NRC Public Document Room at 1717 H Street NW., Washington, D.C., for inspection and copying for a fee.

In the past, the policy of minimizing the cost to the taxpayer has prevented NRC from furnishing multiple copies, either on a subscription basis or in response to requests for guides already issued. With the new sales arrangement, subscribers may purchase as many subscriptions for the future guides as they need. Requests for multiple copies of guides already issued will be filled at the current Government Printing Office price.

Information on the subscription service and current GPO prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 29th day of August 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standard Development.

[FR Doc. 79-27871 Filed 9-6-79; 8:45 am]

BILLING CODE 7590-01-M

Financial Protection Requirements and Indemnity Agreements

On July 23, 1979, the Nuclear Regulatory Commission published in the Federal Register (44 FR 43128) a notice that pursuant to the Atomic Energy Act of 1954, as amended, the Commission was initiating the making of a determination as to whether or not the recent accident at Three Mile Island, Unit 2, (TMI-2) constitutes an extraordinary nuclear occurrence. The notice indicated the submittals of public comments, along with other information assembled by the Commission from its own and other sources will be considered by a panel composed of Commission principal staff.

This panel has now been formed with the Executive Director of Operations as Chairman. Members of the panel will be the Directors of the Office of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, Nuclear Regulatory Research, Inspection and Enforcement, and Standards Development, and the Executive Legal Director. In addition, the present deputy of each member of the panel will serve as an alternate in order that the panel may continue its work during the temporary absence of one or more members. The Director of the Office of Nuclear Material Safety and Safeguards will serve as Deputy Chairman of the panel. The members of the panel will draw upon the personnel resources of their staff to assist in the completion of their work.

The panel intends to complete its work and report to the Commission as soon as possible after the panel has had an opportunity to review any information relevent to its review presented in the report of the Presidential Commission investigating the TMI-2 accident. At the time it reports to the Commission it intends to publish its report in the Federal Register for public comment. The panel intends to review thoroughly all data provided by the public in the comment period that ended August 23. It also intends to review information provided by any other parties and to review and update as necessary the data and analyses provided by the numerous studies on offsite releases that it has identified as having been completed or underway.

Dated at Bethesda, Maryland this 30th day of August 1979.

For the Nuclear Regulatory Commission.

William J. Dircks,

Director of Nuclear Material Safety and Safeguards.

[FR Doc. 79-27860 Filed 9-6-79; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 09/09-0245]

Crosspoint Investment Corp.; Application for a License To Operate as a Small Business Investment Co.

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (CFR 107.102(1979)), by Crosspoint Investment Corporation, 1015 Corporation Way, Palo Alto, California 94303, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 101 et seq).

Officers, Directors and Shareholders

Joe D. Giulie, Chairman of the Board of Directors, 25295 La Loma, Los Altos Hills, California 94022.

Max S. Simpson, President and Chief Executive Officer, 1177 California Avenue, San Francisco, California 94108. 5 percent.

F. Allan Anderson, Director 839 Marina Boulevard; San Franciso, California 94108. 5 percent.

Kenneth A. Eldred, Director, 1075 Westridge, Portola Valley, California 94025. 5 percent.

John B. Mumford, Secretary, Chief Financial Officer and Director, 109 Kathy Court, Los Gatos, California 95030.

Crosspoint Financial Corportation, 1015 Corporation Way; Palo Alto, California. 85 percent.

The Applicant will start operations with $160,000 initial private capital. Crosspoint Financial Corporation has arranged to purchase the Applicant's shares in three $160,000 increments over the 18-month period from July 1, 1979, to December 31, 1980. Messrs. Joe D. Giulie and John B. Mumford, 50 percent and 40 percent owners, respectively, of Crosspoint Financial Corporation, will agree to assume the subscription to purchase the balance of the shares subscribed to in the event Crosspoint Financial Corporation is either unwilling or unable to purchase such stock on a demand basis or within 18-months. Messrs. Max S. Simpson, F. Allan Anderson and Kenneth A. Eldred have agreed that upon 30-day written notice by the Applicant, or if no demand is made then on September 30, 1980, they shall honor their subscription to

purchase the Applicant's shares for a total of $22,500. SBA will not provide leverage funds until the entire $502,500 of private capital has been paid in.

In order to meet the diverse requirements of prospective clients for financing and maintain sufficient flexibility, the Applicant will establish a broad financing policy. The Applicant will, as much as possible, emphasize equity investments in emerging businesses with particular attention to growth potentials.

Matters involved in SBA's consideration of the application include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing would be in the furtherance of the Act.

Notice is hereby given that any person may not later than September 21, 1979 submit written comments to the Acting Associate Administrator for Finance and Investment, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Palo Alto, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: August 31, 1979.

Peter F. McNeish,

Acting Associate Administrator, Finance and Investment.

[FR Doc. 79-27835 Filed 9-6-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1644; Amdt. #1]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (see 44 FR 33997) is amended by extending the filing date for physical damage until the close of business on October 2, 1979, and for economic injury until the close of business on May 2, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 20, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-27834 Filed 9-6-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 139 (Rev. 5)]

Regional Directors of Appeals; Authority of Delegation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The Regional Directors of Appeals are added to the Delegation Order in place of the Assistant Regional Commissioners (Examination) with authority to extend the correction period and the allowable distribution period relating to private foundation and employee plans matters.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Bruce J. Conyne, 1111 Constitution Avenue, N.W., Room 2324, Washington, DC 20224, Telephone No. 202-566-6131 (Not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

Bruce J. Conyne,

Chief, Programs and Procedures Branch, National Office Appeals Division.

Subject: Authority to Extend the Correction Period and the Allowable Distribution Period Relating to Private Foundation and Employee Plans Matters.

1. Pursuant to the provisions of 26 CFR 53 4941(e)-1(d), 26 CFR 53.4941(f)-1, 26 CFR 53.4942(a)-1(c), 26 CFR 53.4943-9(b)(2), 26 CFR 53.4943-11(b), 26 CFR 53.4944-5, 26 CFR 53.4945-1(e), IRC 4971(c)(3), IRC 4975(f)(6), and the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, there is hereby delegated to the District Director of Internal Revenue for each of the key districts for Employee Plans and Exempt Organizations matters and the Regional Director of Appeals for each of the regions the authority to:

(a) Extend the correction period for acts of self-dealing under IRC 4941, failures to distribute income under IRC 4942, excess business holdings under IRC 4943, investments which jeopardize charitable purpose under IRC 4944, and taxable expenditures under IRC 4945;

(b) Extend the allowable distribution period for failures to distribute income under IRC 4942; and

(c) Extend the correction period for failures to meet minimum funding standards under IRC 4971, and correction of prohibited transactions under IRC 4975.

2. The authority delegated herein may be redelegated, but not lower than to Group Managers of Employee Plans and Exempt Organization Groups in Key District Offices and to Chiefs and Associate Chiefs of Appeals Offices and Appeals Team Chiefs in Regional Offices. The authority of an Appeals Team Chief is limited to those cases assigned to the Appeals Team Chief.

3. This Order supersedes Delegation Order No. 139 (Rev. 4) issued July 2, 1978.

Issued: September 6, 1979.

William E. Williams,

Acting Commissioner.

[FR Doc. 79-27998 Filed 9-6-79; 8:45 am]

BILLING CODE 4830-01-M

Office of Revenue Sharing

State and Local Fiscal Assistance Act of 1972; 31 U.S.C.A. § 1221 et seq. (Amended 1976)

AGENCY: Office of Revenue Sharing, Department of the Treasury.

ACTION: Correction notice.

We set forth herewith a notice correcting Data Notice (FR Vol. 44, No. 168, page 50425, filed by the Office of Revenue Sharing) by changing the first sentence under paragraph entitled Supplementary Information to read as follows:

Section 102(b) of the State and Local Fiscal Assistance Act of 1972 as amended by section 6(e)(2) of the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488; 90 Stat. 2347; 31 U.S.C. 1221) provides that for entitlement periods beginning after December 31, 1976, no adjustment shall be made in a government's payments for an entitlement period unless a demand for adjustment has been made by the recipient government or the Secretary of the Treasury within one year after the end of that entitlement period.

Dated: August 30, 1979.

Kent A. Peterson,

Acting Director, Office of Revenue Sharing.

[FR Doc. 79-27847 Filed 9-6-79; 8:45 am]

BILLING CODE 4810-28-M

VETERANS ADMINISTRATION

Availability of Summary Report of 38 U.S.C. 219 Program Evaluation

Notice is hereby given that the program evaluation of the Veterans Administration's Spinal Cord Injury Program has been completed.

Single copies of the Spinal Cord Injury evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mr. Errol D. Clark, Director, Program Evaluation and Appraisal Service, Veterans Administration (074), 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: August 29, 1979.

By direction of the Administrator.

John J. Leffler,

Associate Deputy Administrator.

[FR Doc. 79-27951 Filed 9-6-79; 8:45 am]

BILLING CODE 8320-01-M

200-Bed Facility, Veterans Administration Medical Center, Vancouver, Wash.; Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement, 200-Bed Facility, Veterans Administration Medical Center, Vancouver, Washington" dated August 1979, has been prepared as required by section 102(2)(C) of the National Environmental Policy Act of 1969.

The preferred location of the 200-Bed Facility is at the present 48-acre Veterans Administration Medical Center, Vancouver, Washington. The new facility will have 200 beds replacing the outmoded existing 371-bed facility.

The Draft Statement (April 1979) discusses the environmental impact of the 200-bed facility as the preferred alternative as well as the "No Action" alternative. The Final Statement consists of comments received by the Veterans Administration during the 45-day public review period followed by appropriate responses. The Final Statement is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Questions or requests for single copies of the Final Environmental Impact Statement may be addressed to the above office.

Dated: August 31, 1979.

By direction of the Administrator,

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-27952 Filed 9-6-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 129]

Assignment of Hearings

August 30, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC-146016F, Oliver Brown Trucking Co., Inc., transferred to Modified Procedure.

No. MC-115557 (Sub-No. 19F), Charles A. McCauley, transferred to Modified Procedure.

No. MC-142941 (Sub-No. 29F), Scarborough Truck Lines, Inc., now assigned for hearing on October 10, 1979 (1 day), at Chicago, IL in a hearing room to be later designated.

No. MC-145638F, Roger Stockwell d.b.a. Immediate Delivery Service Co., now assigned for hearing on September 11, 1979 (1 day), is cancelled and application dismissed.

No. MC-42261 (Sub-No. 140F), Langer Transport Corporation, now assigned for Prehearing Conference cancelled, transferred to Modified Procedure.

No. MC-110988 (Sub-No. 375F), Schneider Tank Lines, Inc., now assigned for hearing on September 18, 1979 at Washington, DC is postponed to October 23, 1979 with examination of documents on October 22, 1979 at 1 p.m. at the Offices of the Interstate Commerce Commission.

No. MC-F-13805, General Movers-Purchase-Fasgo Motor Express, Inc., Lyons Transportation Lines, Inc.-Control-General Movers, Inc., and MC-120879 (Sub-No. 4), General Movers, Inc., now being assigned for hearing on October 30, 1979 (2 days), at St. Louis, MO in a hearing room to be later designated.

No. MC-136511 (Sub-No. 28F), Virginia Appalachian Lumber Corp., now being assigned for hearing on October 25, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-112713 (Sub-No. 228F), Yellow Freight System, Inc., now being assigned for hearing on October 26, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-145153 (Sub-No. 2F), Doubledekker, Inc., now being assigned for hearing on October 29, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-95694 (Sub-No. 6F), Diamond Tours, Inc., now being assigned for hearing on October 30, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

No. I&S 9217, Increased Rates on Coal, Arco, TN, to Harllee, GA., Sou. and CGA, transferred to Modified Procedure.

No. MC 110667 (Sub-No. 2F), G. B. "Boots" Smith, Inc., transferred to Modified Procedure.

No. MC 55896 (Sub-No. 104F), R-W Service System, Inc., transferred to Modified Procedure.

No. MC 119767 (Sub-No. 349F), Beaver Transport Company, now being assigned for hearing on October 9, 1979 (1 day), at Chicago, IL in a hearing room to be designated later.

No. MC 136774 (Sub-No. 12F), MC-MOR-HAN Trucking Co., Inc., now being assigned for hearing on December 4, 1979 (1 day), at Chicago, IL in a hearing room to be designated later.

No. MC 145574 (Sub-No. 1F), Russ's Motor Service, Inc., now being assigned for hearing on December 5, 1979 (3 days), at Chicago, IL in a hearing room to be designated later.

No. MC 140829 (Sub-No. 182F), Cargo Contract Carrier Corp., now being assigned for hearing on December 10, 1979 (2 days), at IL in a hearing room to be designated later.

No. MC 129615 (Sub-No. 4), American International Driveaway Extension-Hawaii, now being assigned for hearing on December 12, 1979 (3 days), at Chicago, IL in a hearing room to be designated later.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27885 Filed 9-6-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247 (k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform,

(2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or dealy the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broading amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and it proposed contract carrier service will be consistent with the pubic interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before October 9, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 151

Decided: August 20, 1979

By the Commission, Review Board Number 2, Members Liberman, Boyle and Eaton.

MC 14252 (Sub-64F), filed May 10, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC. 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Galesburg, IL, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 32882 (Sub-112F), filed April 30, 1979. Applicant: MITCHELL BROS. TRUCK LINES, a corporation, 3841 North Columbia Blvd., P.O. Box 17039, Portland, OR 97217. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pre-cut cedar log homes*, knocked-down, and (2) *materials and accessories* used in the manufacture and erection of the commodities in (1) above, from points in Salt Lake County, UT, to points in the United States (except AK, HI, and UT). (Hearing site: Salt Lake City, UT, or Portland, OR.)

MC 37203 (Sub-12F), filed May 10, 1979. Applicant: MILLSTEAD VAN LINES, INC., P.O. Drawer 878, Bartlesville, OK 74003. Representative: Thomas F. Sedberry, 801 Vaughn Bldg., Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods*, between points in OK, KS, and TX, on the one hand, and, on the other, points in CA, AZ, MS, AL, GA, FL, NC, SC, CT, and VA. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 60612 (Sub-21F), filed May 9, 1979. Applicant: TISCHLER EXPRESS, INC., 8408 Elliston Drive, Philadelphia, PA 19118. Representative: Ira G. Megdal, Esquire, 499 Cooper Landing Road, Cherry Hill, NJ 08002. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture of

foodstuffs (except commodities in bulk), between the facilities of American Home Foods, Division of American Home Products Corporation, at or near Milton, PA, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, RI, VA, and DC. (Hearing site: Philadelphia, PA, or Camden, NJ.)

MC 71593 (Sub-39F), filed March 6, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Peter Wolff, P.O. Box 116, Scranton, PA 18504. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry soup ingredients*, from the facilities of Nissin Foods (U.S.A.) Co., Inc., at or near Los Angeles, CA, to points in CT, FL, GA, IL, MD, MA, NJ, NY, PA, and VA. (Hearing site: New York, NY, or Washington, DC.)

MC 96992 (Sub-15F), filed May 8, 1979. Applicant: HIGHWAY PIPELINE TRUCKING COMPANY, P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, Suite 801 Vaughn Building, Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equiped with mechanical refrigeration, between points in AL, AR, GA, IA, IL, IN, KS, KY, MA, ME, MN, MO, MS, NC, NE, NY, OH, PA, TN, TX, VA and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC or Chicago, IL.)

MC 103993 (Sub-963F), filed May 8, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani (same address as applicant.) To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *portable gasifiers*, between points in the United States (except AK and HI). (Hearing site: Sacramento, CA.)

MC 107012 (Sub-363F), filed May 8, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpeting* from the facilities of C. H. Masland and Sons, Inc., at or near Mobile, AL, to points in IA and MN. (Hearing site: Chicago, IL or Washington, DC.)

MC 107012 (Sub-364F), filed May 9, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bicycles, tricyles, unicycles, and exercise equipment*, (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) and (2) above, between the facilities of Schwinn Bicycle Company, at Bellwood, Chicago, and Elk Grove Village, IL, on the one hand, and, on the other, points in the United States (except AK, HI, and IL), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 107012 (Sub-372F), filed May 9, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *doors, door frames, windows, window frames, door and wall systems, and greenhouses*, and (2) *parts, accessories, and hardware* for the commodities in (1) above, from the facilities of Alenco, A Division of Redman Industries, Inc., at or near Bryan, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX, or Washington, D.C.)

MC 108473 (Sub-45F), filed March 19, 1979 and previously published in the **Federal Register** on July 19, 1979. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 87 Jeffrey Avenue, Holliston, MA 01746. Representative: Francis P. Barrett, 60 Adams Street, P.O. Box 238, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between St. Albans, VT, and Champlain, NY: from St. Albans over U.S. Hwy 7 to Swanton, VT, then over VT Hwy 78 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction NY Hwy 9B, then over NY Hwy 9B to junction U.S. Hwy 11, then over U.S. Hwy 11 to Champlain, and return over the same route, (2) between Burlington, VT, and Plattsburgh, NY: from Burlington over U.S. Hwy 2 to junction VT Hwy 314, then over VT Hwy 314 to Lake Champlain, then over Lake Champlain by ferry to Cumberland Head, NY, then over NY Hwy 314 to junction U.S. Hwy 9, then over U.S. Hwy 9 to Plattsburgh, and return over the same route, (3) between Burlington, VT, and Plattsburgh, NY, from Burlington over Lake Champlain by ferry, to Port Kent, NY, then over NY Hwy 373 to junction U.S. Hwy 9, then over U.S. Hwy 9 to Plattsburgh, and return over the same route; (4) between Vergennes, VT, and Elizabethtown, NY: from Vergennes over VT Hwy 22A to junction VT Hwy 17, then over VT Hwy 17 to junction NY Hwy 8, then over NY Hwy 8 to junction NY Hwy 9N, then over NY Hwy 9N to Elizabethtown, and return over the same route, (5) between Middlebury, VT, and junction VT Hwy 125 and VT Hwy 17, over VT Hwy 125; (6) between junction NY Hwy 8 and NY Hwy 9N and Lake George, NY, over NY Hwy 9N; (7) between Rutland, VT, and Ticonderoga, NY: from Rutland over U.S. Hwy 4 to Whitehall, NY, then over NY Hwy 22 to Ticonderoga, and return over the same route; (8) between Whitehall and Glens Falls, NY: from Whitehall over U.S. Hwy 4 to Hudson Falls, NY, then over NY Hwy 254 to Glens Falls, and return over the same route; (9) between Rutland, VT, and Saratoga Springs, NY: from Rutland over U.S. Hwy 4 to junction VT Hwy 22A, then over VT Hwy 22A to junction NY Hwy 22A, then over NY Hwy 22A to junction NY Hwy 22, then over NY Hwy 22 to junction NY Hwy 29, then over NY Hwy 29 to Saratoga Springs, and return over the same route; (10) between Bennington, VT, and Round Lake, NY: from Bennington over VT Hwy 67A to junction VT Hwy 67, then over VT Hwy 67 to junction NY Hwy 67, then over NY Hwy 67 to Round Lake, and return over the same route; (11) between Bennington, VT, and Latham, NY: from Bennington over VT Hwy 9 to junction NY Hwy 7, then over NY Hwy 7 to Latham, NY, and return over the same route; (12) between Arlington, VT, and Saratoga Springs, NY: from Arlington over VT Hwy 313 to junction NY Hwy 313, then over NY Hwy 313 to junction NY Hwy 372, then over NY Hwy 372 to junction NY Hwy 29, then over NY Hwy 29 to Saratoga Springs, and return over the same route; (13) between junction NY Hwy 8 and NY Hwy 22, and Keeseville, NY, over NY Hwy 22; (14) serving in connection with routes (1) through (13) above, all intermediate points, and (15) serving points in VT and Clinton, Essex, Rensselaer, Saratoga, Warren, and Washington Counties, NY, as off-route

points in connection with carrier's authorized regular-route operations. (Hearing site: Boston, MA.)

Notes.—(1) Applicant intends to tack this authority with existing regular and irregular-route authorities. (2) The purpose of this republication is to (a) show regular route operations in lieu of irregular, (b) show the off-route points in connection with carrier's regular-route operations, and (c) show applicant's intention to tack.

MC 108473 (Sub-46F), filed March 19, 1979, and previously published in the **Federal Register** on July 19, 1979. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 87 Jeffrey Avenue, Holliston, MA 01746. Representative: Francis P. Barrett, P.O. Box 238, 60 Adams Street, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, *over regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Binghamton, NY, and Baltimore, MD: from Binghamton over U.S. Hwy 11 to Kingston, PA, then over PA Hwy 309 to junction U.S. Hwy 209 near Tamaqua, PA, then over U.S. Hwy 209 to junction PA Hwy 61 at Pottsville, PA, then over PA Hwy 61 to junction U.S. Hwy 222 at Reading, PA, then over U.S. Hwy 222 to Lancaster, PA, then over U.S. Hwy 30 to York, PA, then over U.S. Hwy 83 to Baltimore, and return over the same route, (2) between Reading and Philadelphia, PA, over U.S. Hwy 422, (3) between Newburgh, NY, and Scranton, PA, over U.S. Hwy 84 (4) serving in connection with routes (1), (2), and (3) above, all intermediate points, and (5) serving points in Bradford, Lackawanna, Monroe, Pike, Sullivan, Susquehanna, Wayne, and Wyoming Counties, PA, as off-route points in connection with carrier's authorized regular-route operations. (Hearing site: Boston, MA.)

Notes.—(1) Applicant intends to tack this authority with existing regular and irregular route authorities. (2) The purpose of this republication is to (a) show regular route operations in lieu of irregular, (b) show the off-route points in connection with carrier's regular-route operations, and (c) show applicant's intention to tack.

MC 108962 (Sub-3F), filed May 9, 1979. Applicant: MIDWEST SPECIALIZED HAULERS, INC., P.O. Box 753, Dubuque, IA 52001. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by agricultural equipment dealers and industrial equipment dealers, (except commodities in bulk), from the facilities of Deere & Company, in Dubuque and Scott Counties, IA, to points in IL. (Hearing site: Chicago, IL.)

MC 110563 (Sub-278F), filed May 8, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in GA, IA, IL, IN, KS, MI, MN, MO, NE, NY, OH, PA, TX, VA, and WI, restricted to the transportation of traffic orignating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 112713 (Sub-270F), filed May 4, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), serving the facilities of Palo Verde Nuclear Generating Plant, at or near Arlington, AZ, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

MC 113362 (Sub-352F), filed May 1, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Mildon D. Adams, 1105½ Eighth Avenue N.E., P.O. Box 429, Austin, MN 55912. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between Britt and Mason City, IA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of (a) Lauridsen Foods, Inc., at or near Britt, IA, or (b) Armour and Co., at or near Mason City, IA.

MC 114632 (Sub-217F), filed May 1, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in packages, from the facilities of Pennzoil Company, at Rouseville and Reno, PA, to points in IN, IL, IA, MI, MO, MN, NE, ND, SD, and WI. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 116142 (Sub-29F), filed May 7, 1979. Applicant: BEVERAGE TRANSPORTATION, INC., 625 Eberts Lane, P.O. Box M–25, York, PA 17405. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, and *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, from the facilities of Miller Brewing Company, in Oswego and Onondaga Counties, NY, to points in PA and MD, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destintions. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 116273 (Sub-229F), filed May 4, 1979. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Representative: William R. Lavery (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *spent or waste petroleum oil*, in bulk, in tank vehicles, from points in IN, IA, KY, MI, MN, MO, NE, OH, TN, and WI, to McCook, IL. (Hearing site: Chicago, IL.)

MC 116763 (Sub-518F), filed May 9, 1979, Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, and distributors of rubber products (except commodities in bulk, in tank vehicles), from Barberton, OH, to the facilities of Wagner Products Division, at or near Hustisford, WI, restricted to the transportation of traffic originating at the named origin and destined to the

named facilities. (Hearing site: Milwaukee, WI.)

MC 123233 (Sub-90F), filed May 9, 1979. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d'Anjou, PQ, Canada H1J 1C4. Representative: J. P. Vermette (same address as applicant). To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *gypsum products and roofing materials*, from the ports of entry on the international boundary line between the United States and Canada to points in CT, MA, ME, NH, NJ, NY, PA, RI, and VT; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Buffalo, NY, or Washington, DC.)

MC 124692 (Sub-277F), filed May 4, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missouri, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *center pivot irrigation systems*, and (2) *parts and supplies* used in the manufacture and installation of the commodities in (1) above, from Denver and Aurora, CO, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 125433 (Sub-254F), filed April 30, 1979. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *irrigation and sprinkling systems*, and (2) *parts and accessories* for the commodities in (1) above, from Tifton, GA, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 127042 (Sub-265F), filed May 9, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic bottles*, from Lenexa, KS, to points in IA and NE. (Hearing site: Kansas City, KS.)

MC 129712 (Sub-21F), filed May 8, 1979. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bakery products* (except frozen), from the facilities of Sunshine Biscuits, Inc., at or near Columbus, GA, to points in AR, and (2) *materials, equipment and supplies* used in the manufacture of bakery products, (except commodities in bulk), in the reverse direction, under continuing contract(s) with Sunshine Biscuits, Inc. of Columbus, GA.

MC 135012 (Sub-4F), filed May 7, 1979. Applicant: AERO LIQUID TRANSIT, INC., 1717 Four Mile Road, NE, Grand Rapids, MI 49505. Representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2–A, Grand Rapids, MI 49503. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ethyl alcohol*, in bulk, in tank vehicles, from Tuscola, IL, to Ada, MI, under continuing contract(s) with Amway Corporation, of Ada, MI. (Hearing site: Lansing or Detroit, MI.)

Note.—Dual operations may be involved.

MC 135052 (Sub-19F), filed May 1, 1979. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products* (except commodities in bulk), from the plantsites of Inland Container Corporation, at or near Indianapolis and Crawfordsville, IN, to points in OH, MI, IL, IA, and KY, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 135152 (Sub-32F), filed May 4, 1979. Applicant: CASKET DISTRIBUTORS, INC., Rural Route No. 2, P.O. Box 327, West Harrison, IN 45030. Representative: Jack B. Josselson, 700 Atlas Bank Bldg., Cincinnati, OH 45202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *household appliances*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from the facilities of General Electric Company, at Louisville and Appliance Park, KY, to points in PA, NY, MI, and WV. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 136343 (Sub-163F), filed May 2, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, and *materials, equipment, and supplies* used in the manufacture of paper and paper products, (except commodities in bulk and those which because of size or weight require the use of special equipment), (1) between the facilities of Hammermill Paper Company, at or near Oswego, NY, on the one hand, and, on the other, New York, NY, points in Suffolk County, NY, and those in NJ, CT, MA, RI, ME, NH, VT, PA, OH, IN, MI, KY, TN, NC, SC, GA, FL, AL, MS, MD, VA, WV, DE, and DC, and (2) between the facilities of Hammermill Paper Company, at or near Erie, PA, on the one hand, and, on the other, points in NC, SC, TN, GA, AL, MS, and FL. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 138432 (Sub-14F), filed May 8, 1979. Applicant: GARLAND GEHRKE, R.R. #1, Lincoln, IL 62656. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) such commodities as are dealt in by chain grocery and feed business houses, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Ralston Purina Company. (Hearing site: Chicago, IL.)

MC 139432 (Sub-10F), filed May 7, 1979. Applicant: SUNRISE TRANSPORTATION, INC., 9850 East Highway 120, Manteca, CA 95336. Representative: Thomas M. Loughran, 100 Bush Street, 21st Floor, San Francisco, CA 94104. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *granulated sugar*, in bulk, in tank or hopper-type vehicles, from the facilities of Amstar Corporation, Spreckels Sugar Division, at or near Mendota, CA, to the facilities of Amstar Corporation, Spreckels Sugar Division, at or near Searpa, AZ, under continuing contract(s) with Amstar Corporation, Spreckels Sugar Division, of San Francisco, CA. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 139482 (Sub-125F), filed May 9, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E.

Balenthin, 630 Osborn Bldg., St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt and salt products*, (except commodities in bulk), from Manistee, MI, to points in IL, IN, IA, KY, MD, MN, MO, NJ, NY, NC, OH, PA, TN, VA, WI, and WV. (Hearing site: Chicago, IL.)

MC 140273 (Sub-19F), filed May 3, 1979. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels Street, Long Lake, MN 55356. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer and fertilizer ingredients*, (1) from Minneapolis, MN, to points in WI, (2) from Gluek, MN, to points in ND, SD, and WI, and (3) from Rosemount, MN, to points in IA, NE, ND, SD, WI, and the Upper Peninsula of MI. (Hearing site: Minneapolis or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 143343 (Sub-2F), filed May 4, 1979. Applicant: BALLENTINE TRANSPORT, INC., P.O. Box 463, Scottsbluff, NE 69361. Representative: Erma Ballentine, 2740 North 19th Street, Gering, NE 69341. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, 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 hides and commodities in bulk), from Brush, Co, to Oakland, San Francisco, Lodi, Fresno, Stockton, Bakersfield, and Los Angeles, CA, and Seattle and Tacoma, WA, under continuing contract(s) with Sigman Meat Company, of Brush, CO. (Hearing site: Omaha, NE, or Denver, CO.)

MC 143562 (Sub-3F), Filed May 4, 1979. Applicant: DONALD R. FORD, d.b.a. SERVICE TRANSPORT, P.O. Box 37, Burbank, WA 98323. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98004. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid blood*, in bulk, from points in ID, WA, MT, and OR, to Wallula, WA, under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE. (Hearing site: Spokane, WA, or Portland, OR.)

MC 143593 (Sub-2F), Filed May 9, 1979. Applicant: ROTA–CONE OILFIELD OPERATING CO., a corporation, 434 Palmer Drive, Muskogee, OK 74401. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from the facilities of Champion International Corporation, at or near Ft. Smith, AR, to points in KS, MO, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk), in the reverse direction, under continuing contract(s) with Champion International Corporation, of Hamilton, OH. (Hearing site: Ft. Smith, AR.)

MC 143812 (Sub-12F), Filed May 7, 1979. Applicant: MARTIN E. VAN DIEST, d.b.a. M. VAN DIEST COMPANY, 8087 Victoria Avenue, Riverside, CA 92504. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *grape juice concentrate* and *grape brandy*, in bulk, from Fresno, CA, to Peoria, IL, Baltimore, MD, Detroit and Paw Paw, MI, Niagara Falls, NY, Cincinnati, Geneva, and Orrville, OH, Memphis, TN, Glendale, WI, and points in WA. (Hearing site: Los Angeles, CA.)

Note.—The person or persons who appear to be engaged in common control with another regulated carrier must either file an application under 49 U.S.C. § 11343 (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 144293 (Sub-9F), Filed May 7, 1979. Applicant: GEORGE McFARLAND, d.b.a. McFARLAND TRUCK LINES, P.O. Box 21, Oakland, MN 56076. Representative: Duane McFarland, Box 1006, Austin, MN 55912. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, 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), between the facilites used by Lauridsen Foods, Inc., at or near Britt, IA, and the facilities used by Armour & Co., at Mason City, IA, on the one hand, and, on the other, points in IL, IN, MN, ND, OH, SD, and WI, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: St. Paul, MN, or Washington, DC.)

MC 144622 (Sub-71F), filed May 8, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72206. Representative: Theodore Polydoroff, 1307 Dolly Madison Blvd., Suite 301, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods* (except frozen), from the facilities of Joan of Arc, at or near (1) Hoopeston and Princeville, IL, (2) Belledeau and St. Francisville, LA, (3) Turkey, NC, and (4) Mayville, WI, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 145102 (Sub-30F), filed May 7, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen bakery products*, from the facilities of Dressel's Bakery, a Division of American Bakery, at Chicago, IL, to points in CA. (Hearing site: Chicago, IL, or Madison, WI.)

MC 145152 (Sub-80F), filed May 7, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, AZ, FL, GA, IA, ID, IL, IN, KS, KY, MA, MI, MN, MO, MS, MT, NC, ND, NE, NY, OH, PA, SC, SD, TN, TX, UT, VA, VT, and WI, restricted to the transportation of traffic orginating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, Illinois.)

MC 145513 (Sub-5F), filed May 4, 1979. Applicant: SERVICE TRANSPORTATION, INC., 125 North 6th Street, Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *apple*

juice, apple cider, and apple vinegar, and (2) *materials and supplies* used in the production and distribution of the commodities in (1) above, between Fruitland, ID, on the one hand, and, on the other, points in AZ, CA, CO, MT, NV, OR, UT, WA, and WY, under continuing contract(s) with Keller-Lorenz Co., d/b/a Payette Vinegar & Cider Co., of Fruitland, ID. (Hearing site: Boise, ID.)

MC 146023 (Sub-2F), filed April 24, 1979. Applicant: BRIAN MISHOU, P.O. Box #1, Unity, ME 04988. Representative: Brian Mishou (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood fencing and lumber*, from Houlton and Unity, ME, to Blue Anchor, NJ, Canton and New London, CT, Latham, NY, Brattleboro and Burlington, VT, Cranston, RI, South Yarmouth, Foxboro, and South Weymouth, MA, and Derry, NH, under continuing contract(s) with Milmac, Inc., at Unity, ME. (Hearing site: Portland, ME, or Boston, MA.)

MC 146163 (Sub-2F), filed May 8, 1979. Applicant: E. FEDDELER & SONS, INC., 21827 Austin St., Lowell, IN 46356. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in LaSalle County, IL, and Berrien County, MI, to points in IL, IN, KY, and OH. (Hearing site: Chicago, IL.)

MC 146293 (Sub-20F), filed May 7, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park, Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *heating and air conditioning units*, and (b) *component parts* for the commodities in (1)(a), from points in Davidson County, TN, to points in CA and AZ, and those in the United States in and east of U.S. Hwy 85, and (2) *equipment, materials, and supplies* used in the manufacture, sales, and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Atlanta, GA.)

MC 147072 (Sub-2F), filed May 7, 1979. Applicant: D & M TRUCKING, INC., 718 Colonial Circle, Jackson, MS 39211. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628; Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brick*, from the facilities of Tri-State Brick & Tile Co., Inc., at or near Jackson, MS, to points in AL, AR, LA, and TN. (Hearing site: Jackson, MS, or Washington, DC.)

MC 147172F, filed May 7, 1979. Applicant: JARDINE TRANSPORT, LTD., Blackville, New Brunswick, Canada EOC 1CO. Representative: Francis P. Barrett, P.O. Box 238, 60 Adams Street, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *lumber, fencing, and wood shingles*, between the ports of entry on the international boundary line between the United States and Canada located in ME, on the one hand, and, on the other, points in CT, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, and DC. (Hearing site: Bangor or Portland, ME.)

MC 147173F, filed May 7, 1979. Applicant: C & T TRUCKING, INC., 1050 Brookside Drive, Richmond, CA 94806. Representative: Brian S. Stern, 2425 Wilson Blvd., Suite 327, Arlington, VA 22201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel products* (except in bulk), from the facilities of Cascade Steel Rolling Mills, Inc., at McMinnville, OR, to points in Alameda, Contra Costa, Marin, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, and Stanislaus Counties, CA, and (2) *scrap metals*, in the reverse direction, under continuing contract(s) in (1) and (2) above with Cascade Steel Rolling Mills, Inc., of Stockton, CA. (Hearing site: San Francisco or Oakland, CA.)

MC 147182 (Sub-1F), filed May 4, 1979. Applicant: GERLAND C. DOLAN, d.b.a. JAR EXPRESS, PA Rt. 66 South, Park Township Industrial District, P.O. Box 604, Leechburg, PA 15656. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *siding, roofing materials, gutters, and downspouts*, (2) *windows, doors, screens, kitchen cabinets, sink tops, bowls, counter tops, and household appliances*, and (3) *parts* for the commodities in (2) above, from the facilities of Jones and Brown, Inc., at Pittsburgh, PA, to points in WV and those in OH on and east of U.S. Hwy 23, under continuing contract(s) with Jones and Brown, Inc., of Pittsburgh, PA. (Hearing site: Pittsburgh, PA.)

MC 147312F, filed May 9, 1979. Applicant: DALOR TRANSIT, INC., 7520 Ryan Road, Franklin, WI 53132. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods*, from the facilities of Campbell Soup Company at or near Chicago, IL, to those points in WI on and south of WI Hwy 64. (Hearing site: Chicago, IL.)

MC 147863F, filed April 5, 1979. Applicant: JAMES S. HELWIG & ALLEN L. GRIMLAND, d.b.a. H & G LEASING, 6331 Melody Lane, #1720, Dallas, TX 75231. Representative: Mert Starnes, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, Division of Mars, Inc., at Waco, TX, to points in CT, DE, MD, MA, NJ, NY, PA, and RI, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 147913F, filed March 12, 1979. Applicant: ACME TRANSFER & STORAGE CO., INC., 2500 N.E. Kennedy Street, Minneapolis, MN 55413. Representative: Ronald W. Cobert, Esquire, Suite 501, 1730 M Street, NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Minneapolis, MN, on the one hand, and, on the other, points in MN. (Hearing site: Washington, DC or Minneapolis, MN.)

MC 148052F, filed March 2, 1979. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen foods*, from the facilities of Chef Pierre, Inc., at or near (a) Traverse City, MI, and (b) Forest, MS, to points in AL, AZ, AR, CA, CO, FL, GA, ID, KS, LA, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, and WY, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk),

in the reverse direction restricted in (1) and (2) above to the transportation of traffic originating at the indicated origins and destined to the indicated destinations, and (3) *frozen foods*, and materials, equipment, and supplies used in the manufacture and distribution of frozen foods (except commodities in bulk and those which because of size or weight require the use of special equipment), between the facilities of Chef Pierre, Inc., at or near Traverse City, MI, and the facilities of Chef Pierre, Inc., at or near Forest, MS, restricted in (3) above to the transportation of traffic originating at and destined to the named facilities. (Hearing site: Chicago, IL or Washington, DC.)

Volume No. 153

Decided: August 17, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 114569 (Sub-299F), filed April 20, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bananas*, from Tampa, FL, to points in MN, WI, IL, MI, KS, OH, PA, NY, NJ, DE, MD, VA, WV, NE, KY, TN, IA, MS, MO, and DC. (Hearing site: Tampa, FL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-300F), filed April 20, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from Kansas City, MO, to points in AL, DE, FL, GA, IA, IL, IN, KY, LA, MI, MN, MS, NC, NE, RI, SC, TN, and WI. (Hearing site: Kansas City, MO, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-301F), filed April 20, 1979. Applicant: SHAFFER TRUCKING, INC. P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the manufacture, distribution, and sale of foodstuffs (except commodities in bulk, in tank vehicles), from those points in the United States in and east of MN, IA, MO, OK, and TX, to Greenville, MS. (Hearing site: Houston, TX, or Washington, DC.)

Note.—Dual operations may be involved.

MC 117589 (Sub-60F), filed April 10, 1979. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *inedible packinghouse products and pet food*, in vehicles equipped with mechanical refrigeration, from points in UT, to points in OR and WA. (Hearing site: Seattle, WA.)

MC 119789 (Sub-582F), filed April 20, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC. P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from Auburndale, FL, to Macon, GA. (Hearing site: Macon, GA.)

MC 140829 (Sub-216F), filed April 9, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, 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), (a) from Carroll, Denison, and Iowa Falls, IA, and Crete, NE, to points in AR, CO, DE, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MO, NE, NH, NM, NC, ND, OH, OK, PA, RI, SD, TN, TX, VT, VA, WV, WI, and DC, and (b) from Cherokee, Des Moines, Fort Dodge, and Sioux City, IA, and Lincoln and Omaha, NE, to points in AR, CO, CT, DE, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NJ, NM, NY, NC, OH, OK, PA, RI, SD, TN, TX, VT, VA, WV, ND, WI, NH, and DC, restricted in (a) and (b) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-217F), filed April 6, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in MA and VT, to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, OH, OK, TX, and WI. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-226F), filed April 20, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, 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 Iowa Beef Processors, Inc., at or near (a) Denison and Fort Dodge, IA, (b) Emporia and Wichita, KS, (c) Luverne, MN, and (d) Dakota City and West Point, NE, to points in IA, IL, IN, KY, MN, MI, MO, NE, ND, OH, SD, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-227F), filed April 20, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime*, in packages, from the facilities of Atlantes Industries, Inc., at or near Dallas, TX, to points in CO, IA, KS, KY, NY, OH, PA, and WI. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-242F), filed March 23, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *baked bread loaves*, from the facilities of Oroweat Foods Company at or near Dallas, TX, to points in KS, MO, and NE, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 142848 (Sub-10F), filed April 20, 1979. Applicant: JAMES R. POSHARD & SON, INC., P.O. Box 69, Mt. Vernon, IN 47620. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer* (a) from points in Posey County, IN, to points in IL, IN, and KY, and (2) from Henderson, KY, to points in IL and IN, restricted to the transportation of traffic having either (1) a prior movement by rail or water, or (2) originating at the named origins and destined to the indicated destinations. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 144688 (Sub-17F), filed April 17, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and poultry feed, fish feed, and corn products* (except commodities in bulk), from the facilities of The Jim Dandy Company and Wells Division of The Jim Dandy Company, (a) at or near Birmingham and Decatur, AL, to points in AR, FL, GA, KY, LA, MS, NC, SC, TN, TX, VA, WV, MD, OK, OH, and MI, and (b) at or near Springfield, TN, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TX, VA, WV, MD, OK, OH, and MI; and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, (excerpt commodities in bulk), in the reverse direction. (Hearing site: Birmingham, AL, or Omaha, NE.)

Agatha L. Mergenovich,
Secretary.

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[Volume No. 30]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Dated: August 23, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 75320 (Sub-162 (M1F)) (Notice of Filing of petition to modify certificate) filed December 6, 1978. Petitioner: CAMPBELL SIXTY-SIX EXPRESS, INC., Post Office Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, Post Office Box 22567, Jackson, MS 39205. Petitioner holds motor *common carrier* certificate in MC 75320 Sub-162 issued October 17, 1975. MC 75320 Sub-162 authorizes transportation, over regular routes, of *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Dallas, TX, and Jackson, MS, over U.S. Hwy 80, serving Monroe, LA for purposes of joinder only, restricted against the transportation of traffic originating at, destined to, or interchanged with connecting carriers at Birmingham and Mobile, AL, Greenville, MS, Memphis, TN, and points within their commercial zones as defined by the Commission, and Atlanta, GA, and points within 15 miles thereof; and further restricted against the transportation of traffic originating at or destined to points in NC and SC; and (2) Between Monroe, LA, and junction U.S. Hwys 165 and 82, at or near Montrose, AR, over U.S. Hwy 165, as an alternate route for operating convenience only, serving no intermediate points, (a) restricted to the transportation of traffic originating at, destined to, or interchanged with connecting carriers at points in MS, and (b) restricted at Monroe, to service for purpose of joinder only. By the instant petition, petitioner seeks to remove in their entirety the restrictions contained in (1) and (2) above.

BILLING CODE 7035-01-M

Motor Carrier Operating Rights Applications

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities

of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 144901 (Sub-1F), filed January 18, 1979. Applicant: INTERMODAL SYSTEMS, INC., 1850 North Southern Road, P.O. Box 4952, Kansas City, MO 64120. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and agricultural commodities* as defined by Section 203(b)(6) of the Interstate Commerce Act (except commodities in bulk), when moving with foodstuffs in temperature controlled equipment in substituted TOFC service for a portion of the through motor carrier movement between points in AZ, CA, OR, IL, IN, IA, KS, MI, MN, MO, NE, WI and WA, restricted to shipments originating at or destined to points in AZ, CA, OR and WA. Note: Common control may be involved. (Hearing Site: Kansas City, MO.)

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

Supplemental Notice

MC–F–13913F. Authority sought for the merger of the operating rights and properties of OKLAHOMA BORDER EXPRESS, INC., and M & M FREIGHT LINES, INC., both of 2050 Kings Road, Jacksonville, FL 32209, into RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209, for ownership, management, and operation, and the acquisition by IU Transportation Services, Inc. and, in turn, by IU International Corporation, both of 1105 North Market Street, Wilmington, DE 19801, of control of the operating rights and properties through the mergers. Applicants' representatives: Roland Rice, Esq., 501 Perpetual Bldg., 1111 "E" Street N.W., Washington, D.C. 20004 and H. Beatty Chadwick, Esq., 1500 Walnut Street, Philadelphia, PA 19102. The original notice in this proceeding was published at 44 FR 9866 and failed to include a complete description of the authority involved in the transaction. The omitted portions of authority are: From OBX, regular routes, *General commodities*, (except commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Webbers Falls, OK and Tulsa, OK serving no intermediate points; from Webbers Falls over U.S. Hwy 64 to junction Muskogee Turnpike and OK Hwy 51 to Tulsa, and return over the same route; (2) between Oklahoma City, OK and Altus, OK serving the intermediate points of Cache, Indiahoma, Snyder, Headrick, and Altus Air Force Base, OK: from Oklahoma City over H. E. Bailey Turnpike to Lawton, OK, then over U.S. Hwy 62 to Altus, and return over the same route.

Note.—By order served July 26, 1979, the Commission authorized and approved the above-referenced merger except as to the portions of authority described here. With respect to the authority described here, the Commission conditionally approved and authorized the transaction subject to the Commission's receipt of protests to this portion of the transaction within 30 days of this publication.

MC–F–13924F. Authority sought for purchase by GRAY MOVING & STORAGE, INC., 1290 So. Pearl Street, Denver, CO., 80210, of a portion of the operating rights of KINGS VAN & STORAGE, INC., 916–18 North Broadway, Oklahoma City, OK., and for acquisition by DAVID R. GRAY, VAYANN D. GRAY, both of 27826 Alabraska Ln., Evergreen, CO., 80439, and DAVID R. GRAY, II, 1290 So. Pearl St., Denver, CO., 80210, of control of such rights through the transaction. Applicants' representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Operating rights sought to be purchased: *Household goods* as defined by the Commission, as a *common carrier* by motor vehicle, over irregular routes, (A) Between points in OK, TX, KS, and IL, on the one hand, and, on the other, points in AL, AR, CO, GA, FL, IN, IA, KY, LA, the lower Peninsula of MI, MS, MO, NB, NM, NC, OH, SC, TN and WI, except between points in IL, on the one hand, and, on the other, points in CO. *Used household goods and used office fixtures*, (B) Between points in AR, on the one hand, and, on the other, points in VA, MD, NY, PA and the District of Columbia. Vendee is authorized to operate as a *common carrier* in all the States in the United States (except WA, OR, HI, AK). Application has been filed for temporary authority under section 210a(b).

Note.—MC–112070 (Sub-No. 19F) is a directly related matter.

MC–F–13975F. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Applicant's representative: Roland Rice, Esq., 501 Perpetual Bldg., 1111 E Street, N.W., Washington, DC 20004; H. Beatty Chadwick, Esq., 1500 Walnut Street, Philadelphia, PA 19102. Authority sought for the purchase by Ryder Truck Lines, Inc., 2050 Kings Road, Jacksonville, FL 32209, of a portion of the operating rights of O. N. C. Freight Systems, P.O. Box 10060, Palo Alto, CA 94303, and for acquisition by I.U. Transportation Services, 1105 N. Market Street, The Wilmington Tower, Wilmington, DE 19801, and in turn, by I. U. International Corp., of the same address, of control of such rights through the transaction. Operating rights sought to be

transferred: *General commodities* (with the usual exceptions and except those moving in mechanically refrigerated equipment) as a common carrier over regular and irregular routes: Over a regular route between Portland, OR and San Francisco, CA, serving the intermediate point of Eureka, CA; and over a series of regular routes which, together, join Minneapolis/St. Paul, MN on the north and Wichita, KS on the south, through St. Joseph and Kansas City, MO; Chicago, IL on the east and Denver, CO on the west through Lincoln, Omaha, Grand Island and Scottsbluff, NB. Irregular routes are between Morrill, NB and points in NB; Maryville, MO and points in MO, IA, NB, and KS; St. Joseph, MO and points in IA, MO, and KS. The authority granted herein to the extent it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. Vendee is authorized to operate pursuant to Certificate No. MC–2900 and Subs as a common carrier of general and specified commodities in the states of AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MO, MS, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WI, WV and DC. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Washington, DC.)

Note.—MC–2900 (Sub-No. 389F) is a directly related matter.

MC–F–13978F. Applicants: WILSON TRUCKING CORPORATION, P.O. Drawer 2, Fishersville, VA 22939 and THOMPSON TRUCKING, INC., P.O. Box 5411, Charlotte, NC 28225, corporations. Applicants' representative: Francis W. McInerny, Esq., 1000 16th St., N.W., No. 502, Washington, DC 20036. Authority sought under 49 U.S.C. 11343, 11344, by the former to purchase the operating rights of the latter as set forth in MC–121767, as follows: *Irregular route* authority by *common motor carrier*, transporting (1) *general commodities*, except those requiring special equipment between points and places in the counties of Halifax, Rockingham, Guilford, Alamance, Scotland, Davidson, Stanely, Rowan, Cabbarrus, Iredell, Mecklenburg, Alexander, Catawaba, Lincoln, Gaston, Caldwell, Cleveland, and Rutherford, NC, (2) *Yarn*, from points in Gaston County, NC to Winston Salem, Valdese and Mount Airy, NC, (3) *Waste Bagging*, from points in Gaston County, NC to Henderson, NC. Transferre is a common carrier by motor vehicle authorized to conduct operations pursuant to Certificate MC–64600 and sub numbers thereunder in the District of Columbia, and states of Maryland, North Carolina, South Carolina and Virginia. Application has been filed for temporary authority under Section 210a(b). Hearing site: Washington, DC or Charlotte, NC.

Note.—MC–64600, Sub–51F is a directly-related matter.

MC F–13987F. Authority sought for purchase by Monroe Contractors Equipment, Inc., William E. Muller, and Joseph W. Joslin, 1640 Penfield Rd., Rochester, NY 14625 of a portion of the operating rights of Wm. B. Duffy Carting Co., Inc. (Louis A. Ryen, trustee), 228 South Plymouth Avenue, Rochester, NY 14608. Applicant's representative: S. Michael Richards, 44 North Ave., PO Box 225, Webster, NY 14580. Operating rights sought to be purchased: *Such commodities which because of weight or size require the use of special equipment*, as a *common carrier*, over irregular routes, between Rochester, NY, on the one hand, and, on the other, points in OH, as described in Certificate No. MC–71337 (Sub-No. 5), issued July 21, 1967. Vendee is authorized to operate under temporary lease of a portion of Certificate No. MC–71337 as a common carrier between Rochester, NY, on the one hand, and, on the other, points in the states of PA, NJ, CT, MA, IN, IL, WI, VA, WV, KY, TN, NC, SC, FL, and GA. Vendee is also authorized to operate under temporary lease Certificate No. MC–133129 as a common carrier between points in Ontario County, NY, on the one hand, and, on the other, points in Monroe, Wayne and Yates Counties, NY, and between points in Monroe County, NY, on the one hand, and, on the other, points in Wayne and Yates Counties, NY. Vendee is affiliated with M.C.E. Transportation Co., Inc. authorized to operate under Permit No. MC–134653 (Sub-No. 2) generally in the states of NY, NJ, RI, CT, MA, VT, NH, and ME, therefore, dual operations may be involved. Vendee intends to tack the authority to be purchased and existing authority at Rochester, NY. A directly related gateway application is being simultaneously filed. Application has been made for temporary authority under Section 210a(b).

Note.—No. MC–144710 (Sub-No. 2F) is a directly related matter.

MC F 13996F. Authority sought for purchase by YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207, of a portion of the operating rights of City Drayage, Inc., 1884 Davis Street, San Leandro, CA 94577, and for acquisition of control of such rights by George E. Powell, Jr., 10990 Roe Avenue, Shawnee Mission, KS 66207, through the purchase. Applicant's Attorneys: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. John M. Records, 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207, and Gary W. Wigand, Suite 214, 13031 San Antonio Drive, Norwalk, CA 90650. Operating rights sought to be transferred are as a *common carrier*, by motor vehicle over *regular routes* transporting *general commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, commodities of unusual value and those requiring special equipment), between San Francisco, CA and Santa Rosa, CA, serving all intermediate points except San Rafael on the following route, and serving the off-route points in Sonoma and Napa counties, CA within 25 miles thereof: From San Francisco over U.S. Hwy 101 to Santa Rosa and return. Serving as off-route points in connection with carrier's regular route operations, those points in Placer County, CA within 25 miles of the junction of Interstate Hwy 80 and CA Hwy 99. Vendee is authorized to operate as a common carrier in AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, IA, KS, KY, MD, MI, MS, MN, MO, NE, NV, NJ, NY, OH, PA, SC, TN, TX, UT, VA, WI, OK, ME, NH, RI, VT.

Note.—Common control may be involved. MC–112713 (Sub-No. 280F) is a directly related matter.

MC F–14001F. Applicants: MILNE TRUCK LINES, INC., 2500 West California Ave., Salt Lake City, UT 84104, and INTERFREIGHT CORPORATION, 2429 E. Washington Blvd., Los Angeles, CA 90021. Applicant's representatives: Edward J. Hegarty and Ann M. Pougiales, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104, and Milton W. Flack, Suite 300, 4311 Wilshire Blvd., Los Angeles, CA 90010. Authority sought for purchase by MILNE TRUCK LINES, INC., 500 West California Avenue, Salt Lake City, UT 84104, of a portion of the operating rights, as more specifically described in Certification of Registration No. MC–98890 (Sub-No. 3), of Interfreight Corporation, 2429 E. Washington Blvd., Los Angeles, CA 90021. Transferee's attorney: Ann M. Pougiales, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, California 94104. Transferor's Attorney: Milton W. Flack, Suite 300, 4311 Wilshire Boulevard, Los Angeles, CA 90010. Operating rights sought to be transferred: General commodities (with certain exceptions) as a common carrier over regular routes: (1) Between the San Francisco Territory, on the one hand; and the Los Angeles Basin Territory, on the other hand; (2) Between the San

Francisco Territory, on the one hand, and the San Diego Territory, on the other hand; (3) Between all points and places located on State Highway 99 between Sacramento and Bakersfield, inclusive, and all points located within 20 miles laterally of said highway; and (4) Between all points and places located on State Highway 99 between Sacramento and Bakersfield, inclusive, and all points located within twenty miles laterally of said highway, on the one hand, and the Los Angeles Basin Territory and the San Diego Territory, on the other hand, via State Highway 99 and Interstate Highway 5 between Bakersfield and the Los Angeles Basin Territory and Interstate Highways 5 and 15 (U.S. Highway 395), and State Highway 1 between the Los Angeles Basin Territory and the San Diego Territory, with service to all intermediate points located on and along said highways and serving all points within twenty miles laterally of said highways mentioned. Operating rights sought to be retained: General commodities (with certain exceptions) as a common carrier. (1) To, and (2) between the Los Angeles Basin Territory, on the one hand, and the San Diego Territory, on the other hand, via Interstate Highways 5 and 15 (U.S. Highway 395) and State Highway 1, serving all intermediate points and places located within twenty miles laterally of the named highways. Milne Truck Lines, Inc. is authorized to operate as a common carrier in XX, CA, ID, NV, UT and WY. Application has been filed for temporary authority under section 210a(b) and for conversion to Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicants request that it be held at San Francisco and Los Angeles, CA.

Note.—No. MC–44605 (Sub-No. 55F) is a directly related matter.

MC F–14006F. Authority sought for the purchase by D. S. Woodberry Company, 440 Rutherford Avenue, Boston, Massachusetts 02129 of certain operating rights of B&T Transportation Company, 200 Frontage Road, Boston, Massachusetts 02118 and for acquisition by Thomas E. Brown, 440 Rutherford Avenue, Boston, Massachusetts 02129 of control of such rights through the purchase. Applicants' attorneys: James E. Mahoney, 148 State Street, Boston, Mass. 02109 and Francis P. Barrett, 60 Adams Street, Milton, Mass. 02187. Operating rights sought to be transferred are contained in Certificate No. MC–30202 as follows: general commodities (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) between Holbrook, Massachusetts and points within 10 miles of Holbrook, on the one hand, and, on the other, points in Connecticut (except Danielson, New London, and Norwich, and those bounded by the Connecticut River, Interstate Highway 86, and Connecticut-Massachusetts State Line). Vendee is a common carrier in the states of MA, RI, and NH. Application has been filed for temporary authority under section 210a(b). (Hearing site: Boston, Mass. or Providence, RI.)

Note.—This application is directly related to a Gateway application simultaneously filed in Docket No. 2509 (Sub-No. 1F).

MC F–14022F. Authority sought for purchase by Reeves Transportation Co., Rt. 5, Dews Pond Rd., Calhoun, GA 30701, of a portion of the operating rights of Bray Lines Incorporated, P.O. Box 1191, Cushing, OK 74023, and for acquisition by Oliver W. Reeves, Rt. 4, Calhoun, GA 30701, and John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602, of control of such rights through the purchase. Applicants' attorney: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. Operating rights sought to be purchased: (1) A portion of the operating rights described in MC–112822 (Sub-No. 148), described as follows: Irregular routes: *Carpet*, from Hillsboro, TX to points in AZ, CA, ID, IL, LA, MN, MS, MO, MT, NV, NM, ND, OK, OR, SD, UT, WA, WI and WY, with no transportation for compensation on return except as otherwise authorized. *Materials, supplies, and equipment used in the manufacture of carpet (except in bulk)*, from points in CA, GA, OK, SC and VA, to Hillsboro, TX, with no transportation for compensation on return except as otherwise authorized. (2) All operating rights described in MC–112822 (Sub-No. E206), described as follows: Irregular routes; *Carpet*, from Hillsboro, TX, to points in CO, KS, NE, IA, IN, MI, OH, KY, NC, VA, WV, PA, NY, MD, NJ, CT, MA, VT, NH, RI, DE and ME. (3) All operating rights described in MC–112822 (Sub-No. E66), described as follows: Irregular routes; *Carpet*, from Hillsboro, TX, to points in CT, DE, IN, KY, MD, MA, ME, MI, NH, NJ, NY, OH, PA, RI, TN, VT, VA, WV and DC. Transferee is authorized to operate as a motor *common carrier* in Docket No. MC–129537 and Subs thereto in the States of FL, GA, TX and AR. Transferee will tack the authority sought to be purchased at Hillsboro, TX, so as to be able to provide a through-service from Transferee's origin points in the State of GA to all of the destination points described in Items (1), (2) and (3) above. Approval of the proposed transaction will not result in dual operations or duplicating authority. The approval of the proposed transaction will result in splitting Transferor's operating authority, leaving with Transferor all of its operating authority as described in MC–112822 and Subs thereunder except for that authority described above. Application has not been filed for temporary authority under Section 210a(b). This application is not related to any pending or simultaneously filed applications.

MC F–14045F. Transferee: AJAX TRANSFER COMPANY, 550 E. 5th St. So., So. St. Paul, MN 55075. Transferor: CRX CORPORATION, 5016 7th Place, Winona, MN 55987. Representatives: Paul Nelson, 550 E. 5th St. So., So. St. Paul, MN 55075 and Donald L. Stern, 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Authority sought for purchase by Ajax Transfer Company of the operating rights of CRX Corporation. Operating rights sought to be transferred are set out in Docket No. MC–135003 (Sub-No. 1) authorizing transportation of frozen foods and poultry commodities from Faribault and St. Charles, MN, to points in CT, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. Transferee is authorized to operate as a common carrier in the continental United States. No duplicate authority is sought. No application for temporary authority under Section 210a(b) has been filed. (Hearing site: St. Paul, MN.)

Note.—MC–138898 (Sub-No. 13F) is a directly related matter.

MC F–14091F. Authority sought by Red Star Express Lines of Auburn, Inc., 24–50 Wright Avenue, Auburn, NY 13021 for control of Tidewater Inland Express, Inc., 258 Rehoboth Boulevard, Milford, DE 19963 and for acquisition of control by John Bisgrove, Sr., 24–50 Wright Avenue, Auburn, NY 13021. Applicant's attorneys: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, DC 20036 and Jack R. Turney, Jr., 2001 Massachusetts Avenue, N.W., Washington DC 20036. Operating rights sought to be controlled: A. *General commodities*, with exceptions, as a common carrier, over regular routes: (1) Between Wilmington, DE, and Harrisburg, PA: From Wilmington over DE Highway 48 to junction DE Highway 41, thence over DE Highway 41 to the DE–PA State line, thence over PA Highway 41 to junction U.S. Highway 30 at or near Gap, PA, thence over U.S. Highway 30 to Lancaster, PA, thence over PA Highway 72 to junction U.S.

Highway 230, thence over U.S. Highway 230 to Harrisburg, and return over the same route. (2) Between Wilmington, DE and Avondale, PA: From Wilmington over U.S. Highway 202 to junction U.S. Highway 1, thence over U.S. Highway 1 to Avondale, and return over the same route. (3) Between Wilmington, DE, and junction PA Highway 52 and U.S. Highway 1 (at or near Hamorton, PA): From Wilmington over DE Highway 52 to the DE–PA State line, thence over PA Highway 52 to junction U.S. Highway 1, and return over the same route. (4) Between Wilmington, DE, and New York, NY: From Wilmington over DE Highway 9 to junction U.S. Highway 40, thence over U.S. Highway 40 to junction U.S. Highway 130, thence over U.S. Highway 130 to junction U.S. Highway 1 (near New Brunswick, NJ), thence over U.S. Highway 1 to New York, and return over the same route. Serving all points in Cumberland, York, Lancaster, Lebanon, and Dauphin Counties, PA, as intermediate or off-route points in connection with the operations authorized above, and serving Avondale, PA and junction PA Highway 52 and U.S. Highway 1 for purposes of joinder only. (5) Between Milford, DE and Philadelphia, PA, serving all intermediate points; and the off-route points in that part of DE south of a line beginning at the PA–MD State line and extending through Hockessin and Wilmington, DE, to the DE River, including points in Caroline, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester Counties, MD, and those in Cecil County, MD, south of U.S. Highway 40, including points on the indicated portions of the highways specified: From Milford over U.S. Highway 113 to junction U.S. Highway 13, thence over U.S. Highway 13 to Philadelphia, and return over the same route. (6) Between Baltimore, MD, and Milford, DE, serving all intermediate points (except that traffic from Baltimore and points on the said routes in MD west of the Susquehanna River and those west of the Chesapeake Bay is restricted to delivery at intermediate points on the authorized routes in MD and DE on the Delmarva Peninsula); and off-route points as specified next above: From Baltimore over U.S. Highway 40 to Glasgow, DE, thence over DE Highway 896 to junction U.S. Highway 13, thence over U.S. Highway 13 to junction U.S. Highway 113, thence over U.S. Highway 113 to Milford, and return over the same route. From Baltimore over MD Highway 2 to junction U.S. Highway 50, thence over U.S. Highway 50 to Sandy Point, MD, thence across the Chesapeake Bay to Matapeake, MD, thence over U.S. Highway 50 to junction MD Highway 404, thence over MD Highway 404 to junction MD Highway 313, thence north over MD Highway 313 (one mile) to junction MD Highway 317, thence over MD Highway 317 via Burrsville, MD, to the MD–DE State line, thence over DE Highway 14 to Milford, and return over the same route. (7) Between Syracuse, NY and Hanover, PA: From Syracuse over NY Highway 5 to Fayetteville, NY, thence over NY Highway 92 to junction U.S. Highway 20, thence over U.S. Highway 20 via Morrisville, NY to Bouckville, NY, thence over NY Highway 12B via Randallsville, NY, to junction NY Highway 12 (also from Morrisville over unnumbered highway via Eaton, NY, to Randallsville, thence over NY Highway 12B to junction NY Highway 12), thence over NY Highway 12 via Oxford, NY, to Binghamton, (also from Oxford over NY Highway 220 to junction NY Highway 7, thence over NY Highway 7 to Binghamton), thence over U.S. Highway 11 to Nicholson, PA, thence over PA Highway 92 (portion formerly shown as U.S. Highway 309), via Tunkhannock, PA, to West Pittston, PA, thence over U.S. Highway 11 to junction U.S. Highway 22, thence over U.S. Highway 22 to Harrisburg, PA, thence over Interstate Highway 83 (formerly U.S. Highway 111) to York, PA, thence over U.S. Highway 30 to junction PA Highway 116, thence over PA Highway 116 to Hanover, and return over the same route. (8) Between Endicott, NY, and Binghamton, NY: From Endicott over NY Highway 17C to Binghamton, and return over the same route. (9) Between Lancaster, PA, and Harrisburg, PA: From Lancaster over U.S. Highway 230 to Harrisburg, and return over the same route. (10) Between Lancaster, PA and York, PA: From Lancaster over U.S. Highway 30 to York, and return over the same route. Serving the intermediate points of Johnson City, Binghamton, Cazenovia, Nelson, Morrisville, Hamilton, Earlville, Sherburne, Norwich, Oxford, Greene, Afton, Bainbridge, and Guilford, NY, Danville, Bloomsburg, Berwick, Northumberland, Lancaster, Selinsgrove, Harrisgrove, Harrisburg, Camp Hill, Lemoyne, New Cumberland, Steelton, High Spire, Middletown, York, West York, North York, East York, Springrove, Columbia, Mount Joy, Hanover, Florin, Elizabethtown, and Rheems, PA; and the off-route points of Chenango Forks, Owego, Sanitaria Springs, Harpursville, Sidney, Tunnel, Johnson City, Endicott, Masonville, Bennetsville, NY, Lititz, Manheim, and Sunbury, PA, in connection with the four paragraphs next above. (11) Between Syracuse, NY, and Chenango Forks, NY, with no service to or from intermediate points nor to or from termini: From Syracuse over U.S. Highway 11 to Whitney Point, NY, thence over NY Highway 79 to Chenango Forks, NY, and return over the same route. (12) Between Tunkhannock, PA, and junction PA Highway 92 and U.S. Highway 11, with no service to or from intermediate points, nor to or from termini: From Tunkhannock over PA Highway 29 to Bowman Creek, PA, thence over U.S. Highway 309 to junction U.S. Highway 11, and return over the same route. (13) Between Manchester MD, and Reisterstown, MD, with no service to or from intermediate points, nor to or from termini: From Manchester over MD Highway 30 to Reisterstown, and return over the same route. (14) Between Williamsport, PA and New York, NY, serving all intermediate points in PA, the intermediate and off-route points of Bangor and Northampton, PA, Newark, Jersey City, Hoboken, Plainfield, Ridgefield, Summit and Morristown, NJ, points in Bergen, Hudson, Union and Essex Counties, NJ, and points in Passaic County, NJ, east of U.S. Highway 202, unrestricted; and the off-route points of Stroudsburg, PA, and Lyndhurst, NJ, restricted against the transportation of traffic originating at or destined to Stroudsburg and Lyndhurst: From Williamsport over U.S. Highway 220 to Halls, PA, thence over PA Highway 147 (formerly PA Highway 14) via Muncy, PA, to Sunbury, PA, (also from Muncy over PA Highway 405 to junction PA Highway 147 (formerly portion PA Highway 14) near Milton, PA, thence over PA Highway 147 to Sunbury), thence over PA Highway 61 (formerly U.S. Highway 122) to Hamburg, PA, thence over U.S. Highway 22 to Elizabeth, NJ, and thence over U.S. Highway 1 to New York, and return over the same route. (15) Between Sunbury, PA, and Lewistown, PA, serving all intermediate points: From Sunbury over bridge to junction U.S. Highway 11, thence over U.S. Highway 11 to Selinsgrove, PA, and thence over U.S. Highway 522 to Lewistown, and return over the same route. (16) Between Pottsville, PA, and Millersburg, PA, serving all intermediate points: From Pottsville over U.S. Highway 209 to Millersburg, and return over the same route. (17) Between Frackville, PA, and Hazleton, PA, serving all intermediate points: From Frackville over PA Highway 924 via Gilberton, PA, to Shenandoah, PA, thence over PA Highway 54 (formerly PA Highway 45) to Hometown, PA, thence over U.S. Highway 309 to Tamaqua, PA, thence

return over U.S. Highway 309 to Hometown, and thence continuing over U.S. Highway 309 to Hazleton, and return over the same route. (18) Between Pottsville, PA, and Hazleton, PA, serving all intermediate points, and the off-route points of Weatherly and Freeland, PA: From Pottsville over U.S. Highway 209 to Mauch Chunk, PA, thence over PA Highway 29 to Hazleton, and return over the same route. (19) Between Berwick, PA, and Northumberland, PA, serving all intermediate points: From Berwick over U.S. Highway 11 to Northumberland, and return over the same route. (20) Between Cortland, NY, and Binghamton, NY, serving no intermediate points, but serving the off-route points of Homer and McGraw, NY: From Cortland over U.S. Highway 11 to Binghamton, and return over the same route. (21) Between York, PA, and Baltimore, MD, as an alternate route for operating convenience only in connection with carrier's regular route operations between Washington, DC, and Syracuse, NY, serving no intermdiate points: From York over Interstate Highway 83 (formerly U.S. Highway 111) to Baltimore, and return over the same route. (22) Between Harrisburg, PA, and Baltimore, MD, serving no intermediate points: From Harrisburg over Interstate Highway 83 (formerly U.S. Highway 111) to Lemoyne, PA, thence over U.S. Highway 15 to York Springs, PA, thence over PA Highway 94 to the PA–MD State line, thence over MD Highway 30 to Manchester, MD, thence over MD Highway 31 to Westminster, MD, and thence over U.S. Highway 140 to Baltimore, and return over the same route. (23) Between Nicholson, PA, and West Pittston, PA, with no service to or from intermediate points, nor to or from termini: From Nicholson over U.S. Highway 11 to West Pittston, and return over the same route. (24) Between Endicott, NY, and Binghamton, NY, serving no intermediate points: From Endicott over NY Highway 17C to junction NY Highway 26, thence over NY Highway 26 to junction NY Highway 17, and thence over NY Highway 17 to Binghamton, and return over the same route. (25) Between Lemoyne, PA, and Hershey, PA, serving no intermediate points. From Lemoyne over Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, PA thence over U.S. Highway 322, to junction U.S. Highway 422, thence over U.S. Highway 422 to Hershey, and return over the same route. (26) Between Baltimore, MD, and Alexandria, VA, serving all intermediate points, and off-route points in MD and VA within 5 miles of the District of Columbia, and points within 6 miles of Baltimore. From Baltimore over U.S. Highway 1 to Alexandria, and return over the same route. (27) Between Whitney Point, NY, and junction U.S. Highway 11 and NY Highway 12, north of Binghamton, NY, for operating convenience only, with no service to or from the termini or intermediate points. From Whitney Point over U.S. Highway 11 to junction NY Highway 12, and return over the same route. (28) Between Reading, PA, and Baltimore, MD, serving no intermediate points: From Reading over PA Highway 625 (formerly PA Highway 73) to junction PA Highway 23 to Lancaster, PA, thence over U.S. Highway 222 to Conowingo, MD, thence over U.S. Highway 1 to Baltimore, and return over the same route. (29) Between New York, NY, and Reading, PA, serving all intermediate points; the off-route points of Piermont, NY, New Brunswick, Bound Brook and South Bound Brook, NJ; points in the New York, NY commercial zone, as defined by the Commission in 1 M.C.C. 665; points in that part of Westchester County, NY, that lies north of the New York, NY commercial zone, supra, and on and west of a line extending from Long Island Sound along the NY–CT State line to junction NY Highway 120, thence along NY Highway 120 to junction NY Highway 100, and thence along NY Highway 100 to junction U.S. Highway 202, and on and south of U.S. Highway 202; and points in Bergen, and Passaic Counties, NJ, on and east of U.S. Highway 202; in Morris County, NJ, on and east of U.S. Highway 202 and on and north of NJ Highway 24; in Middlesex County, NJ, on and north of the Raritan River; and points in Union, Essex, and Hudson Counties, NJ: From NY over U.S. Highway 1 to Newark, NJ, thence over U.S. Highway 22 to junction NJ Highway 28 near Somerville, NJ, thence over NJ Highway 28 to junction unnumbered highway, thence over unnumbered highway via North Branch, NJ, to junction U.S. Highway 22, thence over U.S. Highway 22 to junction unnumbered highway, thence over unnumbered highway via Whitehouse, NJ, to junction U.S. Highway 22, thence over U.S. Highway 22 to junction unnumbered highway, thence over unnumbered highway via Lebanon, NJ, to junction U.S. Highway 22, thence over U.S. Highway 22 to junction unnumbered highway thence over unnmumbered highway via Annandale, NJ, to junction U.S. Highway 22, thence over U.S. Highway 22 to junction Alternate U.S. Highway 22, thence over Alternate U.S. Highway 22 via Phillipsburg, NJ, and Easton, PA, to junction unnumbered highway, thence over unnumbered highway via Wilson, Butztown, and Bethlehem, PA, to Allentown, PA, thence over U.S. Highway 222 to Reading, and return over the same route. (30) Between Reading, PA, and Hanover, PA, serving all intermediate points, and off-route points which are located west of the Susquehanna River and within 5 miles north of that portion of the route (U.S. Highway 30 and PA Highway 116) specified immediately below which is located west of the Susquehanna River: From Reading over U.S. Highway 222 (formerly U.S. Highway 22) to junction unnumbered highway near Ephrata, PA, thence over unnumbered highway via Ephrata to junction U.S. Highway 222, thence over U.S. Highway 222 to Lancaster, PA, thence over U.S. Highway 30 to junction PA Highway 116, thence over PA Highway 116 to Hanover, and return over the same route. (31) Between Reading, PA, and Harrisburg, PA, serving all intermediate points; and off-route points located west of the Susquehanna River and within 5 miles of Harrisburg: From Reading over U.S. Highway 422 via Hershey, PA, to junction unnumbered highway, thence over unnumbered highway to Hummelstown, PA, thence over unnumbered highway to junction U.S. Highway 322, thence over U.S. Highway 322 to Harrisburg, and return over the same route. (32) Between Reading, PA, and Sunbury, PA, serving all intermediate points: From Reading over PA Highway 61 (formerly U.S. Highway 122) to Pottsville, PA, thence over U.S. Highway 209 to Mauch Chunk, PA, thence over PA Highway 93 (formerly PA Highway 29) to Hazleton, PA, thence over U.S. Highway 309 to junction PA Highway 54 (formerly PA Highway 45), thence over PA Highway 54 to Ashland, PA, thence over PA Highway 61 (formerly U.S. Highway 122) to Sunbury, PA, and return over the same route. (33) Between Tamaqua, PA, and Hometown, PA, serving all intermediate points: From Tamaqua over U.S. Highway 309 to Hometown, and return over the same route. (34) Between Pottsville, PA, and Millersburg, PA, serving all intermediate points: From Pottsville over U.S. Highway 209 to junction unnumbered highway, thence over unnumbered highway via Williamstown, PA, to junction U.S. Highway 209, thence over U.S. Highway 209 to Millersburg, and return over the same route. (35) Between Lancaster, PA, and Harrisburg, PA, serving all intermediate points: From Lancaster over U.S. Highway 230 to junction PA Highway 722, thence over PA Highway 722 via Landisville, and Salunga, PA, to junction U.S. Highway

230, thence over U.S. Highway 230 to Harrisburg, and return over the same route. (36) Between Reading, PA, and Phoenixville, PA, serving all intermediate points: From Reading over U.S. Highway 422 to Pottstown, PA, thence over PA Highway 100 to junction PA Highway 724 (formerly PA Highway 183), thence over PA Highway 724 to junction PA Highway 23, thence over PA Highway 23 to Phoenixville, and return over the same route. (37) Between Allentown, PA, and Mauch Chunk, PA, serving all intermediate points: From Allentown, PA over PA Highway 29 to Mauch Chunk, and return over the same route. (38) Between Sunbury, PA, and Harrisburg, PA, serving all intermediate points: From Sunbury over PA Highway 147 (formerly PA Highway 14) to junction U.S. Highway 322, thence over U.S. Highway 322 to Harrisburg, and return over the same route. (39) Between Ashland, PA, and Pottsville, PA, serving all intermediate points: From Ashland over PA Highway 61 (formerly U.S. Highway 122) to Pottsville, and return over the same route. (40) Between Easton, PA and Bangor, PA, serving all intermediate points: From Easton over PA Highway 248 (formerly PA Highway 45) to junction PA Highway 191, thence over PA Highway 191 to junction PA Highway 115, thence over PA Highway 115 to junction unnumbered highway (formerly portion PA Highway 115), thence over unnumbered highway to Windgap, PA, thence over unnumbered highway (formerly PA Highway 702) to Bangor, PA, and return over the same route. (41) Between Allentown, PA, and Souderton, PA, serving all intermediate points: From Allentown over U.S. Highway 309 to junction PA Highway 113, thence over PA Highway 113 to Souderton, and return over the same route. (42) Between Syracuse, NY, and Oswego, NY, serving all intermediate points and the off-route points of Geddes, De Witt, Salina, Pennellville, and Nedrow, NY: From Syracuse over NY Highway 57 to Oswego, and return over the same route. From Syracuse over NY Highway 48 to Oswego, and return over the same route. From Syracuse over NY Highway 370 to junction NY Highway 31, thence over NY Highway 31 to junction NY Highway 48, thence over NY Highway 48 to Oswego, and return over the same route. (43) Between Cortland, NY, and Elmira, NY, serving all intermediate points, and the off-route points of Etna, McLean, Peruville, Virgil, Elmira Airport, Freeville, Homer and McGraw, NY: From Cortland over NY Highway 13 to Elmira, and return over the same route. From Cortland over NY Highway 13 to junction NY Highway 14, thence over NY Highway 14 to Elmira, and return over the same route. (44) (a) Between Lancaster, PA, and New York, NY, in connection with carrier's regular-route operations, serving no intermediate points: From Lancaster over U.S. Highway 30 to Philadelphia, PA, thence over U.S. Highway 1 to New York, and return over the same route. (b) Between Sunbury, PA, and Harrisburg, PA, in connection with carrier's regular-route operations, serving no intermediate points: From Sunbury south over PA Highway 147 (formerly PA Highway 14) to first bridge, thence across the Susquehanna River to junction U.S. Highway 15, north of Shamokin Dam, PA, thence over U.S. Highway 15 to Wormleysburg, PA, thence across the Susquehanna River to Harrisburg, and return over the same route. (c) Between Harrisburg, PA, and York, PA, in connection with carrier's regular-route operations, serving no intermediate points: From Harrisburg across the Susquehanna River, thence over Interstate Highway 83 (formerly U.S. Highway 111) to junction unnumbered highway, thence over unnumbered highway via New Cumberland, PA, to junction Interstate Highway 83 (formerly portion U.S. Highway 111) thence over Interstate Highway 83 to York, and return over the same route. B. *General commodities*, with exceptions, as a common carrier over irregular routes: (1) Between Wilmington, DE, on the one hand, and, on the other, Washington, DC, New York, NY, points in NJ, and those in DE and that part of PA east of U.S. Highway 220 (except Philadelphia, PA, and points between Philadelphia and Wilmington east of U.S. Highway 13). (2) Between points in that part of PA bounded by a line beginning at the NJ–PA State line at Portland, PA, thence extending along a straight line through Hazleton, PA, to the Susquehanna River at Sunbury, PA, thence along PA Highway 147 (formerly PA Highway 14) to junction U.S. Highway 322, thence along U.S. Highway 322 to Harrisburg, PA, thence along the Susquehanna River to its crossing of U.S. Highway 30, thence along U.S. Highway 30 to Lancaster, PA, thence along a straight line from Lancaster, to Phoenixville, PA, thence along a straight line through Lansdale, PA, to New Hope, PA, and thence north along the DE River to point of beginning. (3) Between points in Broome and Cortland Counties, NY. (4) Between points in Cortland County, NY, on the one hand, and, on the other, points in Cayuga, Chenango, Onondaga, Tioga, Tompkins, and Yates Counties, NY. (5) From points in Cortland County, NY, to points in Otsego County, NY, with no transportation for compensation on return except as otherwise authorized. (6) From points in Tompkins County, NY, to points in Broome County, NY, with no transportation for compensation on return except as otherwise authorized. (7) From points in Onondaga County, NY, to points in Cayuga County, NY, with no transportation for compensation on return except as otherwise authorized. C. *General commodities*, as a common carrier, over irregular routes: (1) Between Butler, NJ, and points in Essex, Passaic, Hudson, and Bergen Counties, NJ, on the one hand, and, on the other, New York, NY. D. As a common carrier, over irregular routes: (1) *Agricultural commodities*, from Hurlock and Federalsburg, MD, and points in Somerset and Wicomico Counties, MD, and Kent and Sussex Counties, DE, to Washington, DC, Baltimore, MD, Philadelphia, PA, Newark and Jersey City, NJ, and New York, NY, with no transportation for compensation on return except as otherwise authorized. (2) *Canned goods*, from points in DE (except Wilmington, DE), and that part of MD on and south of U.S. Highway 40 and east of the Chesapeake Bay, to Trenton and Camden, NJ, Baltimore, MD, Philadelphia, PA, Washington, DC, and points in the New York, NY, commercial zone as defined by the Commission, that part of Long Island, NY, on and west of NY Highway 110, and that part of NJ within 30 miles of Columbus Circle, New York, NY, with no transportation for compensation on return except as otherwise authorized. From Wilmington, DE, to Baltimore, MD, Philadelphia, PA, points in the New York, NY, commercial zone as defined by the Commission (except New York, NY), and those in Long Island, NY, on and west of NY Highway 110, with no transportation for compensation on return except as otherwise authorized. (3) *Nursery products*, from Milford, DE, to Little Silver and Red Bank, NJ, with no transportation for compensation on return except as otherwise authorized. (4) *Wearing apparel, wearing apparel materials*, and *tablecloths*, between Pottsville, PA, and points within 30 miles thereof, on the one hand, and, on the other, Baltimore, MD, and Washington, DC. Transferee is authorized to operate as a motor common carrier in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA and DC. Common control may be involved. Application has been made for temporary authority under 49 U.S.C. 11349. (Hearing site: Philadelphia, PA.)

MC F-14104F. Authority sought for purchase by BEE LINE MOTOR FREIGHT, INC., 1804 Paul St., Omaha, NE 68102 of a portion of the operating rights of East Nebraska Motor Freight, Inc., 409 Locust St., Chillicothe, MO 64601. Transferee's attorney: Donald L. Stern, Suite 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Operating rights to be purchased: General commodities (except commodities in bulk, house trailers, mobile homes and prefabricated buildings by truckaway method), between points within a 20-mile radius of Lincoln, NE, and between points in said radial area on the one hand, and, on the other, all points in NE; and general commodities, except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Omaha, NE and Utica, NE, serving the intermediate and off-route points of Lincoln, Milford, Beaver Crossing, and Goehner, NE, and from Omaha over the above-specified route to Lincoln, NE, thence over NE Highway 2 to Utica, and return over the same route, restricted against serving points in IA within the Omaha, NE commercial zone, as defined by the Commission. Transferee is a common carrier by motor vehicles authorized to conduct operations in CO, IA and NE. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Omaha, NE.)

MC-F 14105F. Authority sought to purchase by Chemical Transport, P.O. Box 2644, 1627 Third Street N.W., Great Falls MT 59403, of a portion of the operating rights of Rice Truck Lines, P.O. Box 2644, 1627 Third Street N.W., Great Falls MT 59403, and for J. Michael Rice, M. Kathleen Rice, Patrick W. Rice and Rosemary A. Waters of Great Falls MT, who control Transferee through ownership of all its outstanding capital stock, to acquire concurrent control of the operating rights through the purchase. Applicants' attorney: Richard S. Mandelson, Jones, Meiklejohn, Kehl & Lyons, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver CO 80264. Operating rights sought to be transferred: *Alcoholic beverages,* in bulk, in tank vehicles, from points in Jefferson and Nelson Counties KY, and Atchison County KS, to points in Lewis and Clark County MT; *chemicals* (except fertilizer), in bulk, from points in Missoula County MT, to points in MT, CO, WY, ID, OR and WA; *ores and ore concentrates,* in bulk, between points in MT, ID and WA; *distillers' dried grain* from the international boundary line between the United States and Canada at or near Oroville WA, to points in WA, ID, MT, OR, UT and CA; *methanol, glycol, and anti-freeze,* in bulk, from Missolula County MT, to points in ND; *such commodities as are manufactured or distributed by steel mills or metal fabricators; such commodities as are used or are dealt in by retail or wholesale hardware stores; scrap metals;* and *hides and pelts* (a) between the facilities of Pacific Hide & Fur Depot at or near Billings, Bozeman, Butte, Glasgow, Great Falls, Havre, Helena, Kalispell, Miles City, Missoula, Lewistown, and Sidney MT; Kennewick, Spokane and Tacoma WA; Mills, Riverton, Worland and Gillette WY; Salmon, Nampa, Sand Point, Lewiston, and Twin Falls ID; and Portland OR; and (b) between the points named in (a) above on the one hand and, on the other, Wilton IA; Denver, Loveland, and Pueblo CO; Omaha and Norfolk NE; Minneapolis and St. Paul MN; Whitehall MI; Cambridge City and Gary IN; St. Louis MO; Laredo TX; and points in CA, IL, MT, OR, UT, WA and WY, under a continuing contract with Pacific Hide & Fur Depot; *refined uranium ore,* in containers, from the facilities of Western Nuclear, Inc. near Wellpinit WA to Metropolis IL and Gore OK. All authorities sought to be transferred are over irregular routes. Applicant has not filed for temporary authority under Section 210a(b). (Hearing site: Great Falls MT.)

MC-F 14108F. Applicant: LESLIE B. LAMPTON, 202 East Pearl Street, Jackson, MS 39201. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought for Leslie B. Lampton, 202 East Pearl Street, Jackson, Mississippi 39201, to control Lampton-Love, Inc. and Ergon Trucking, Inc. through stock ownership. Operating rights of Lampton-Love, Inc. sought to be controlled are issued in MC-145304, authorizing operations as a motor common carrier of *specified commodities,* in bulk, in tank vehicles, from named points in MS and Memphis, TN to points in AL, AR, FL, GA, LA, MO, TN and TX. The operating rights of Ergon Trucking, Inc. sought to be controlled are issued under MC-138956, authorizing operations as an irregular route motor common carrier of *specified commodities,* in bulk, in tank vehicles, to and from various points in the states of AL, AR, FL, GA, KY, LA, MS, MO, NC, SC, TN and TX. No application for temporary authority under Section 11349 [formerly Section 210a(b)] has been filed.

MC F-MC-F 14116F. Authority sought for purchase by SIMANEK, INC., 2222 N. 11th St., Omaha, NE 68110 of a portion of the operating rights of East Nebraska Motor Freight, Inc., 409 Locust St., Chillicothe, MO 64601, and for acquisition by United Corp., 2222 N. 11th St., Omaha, NE 68110 of control of such rights through the transaction. Applicants' Representative: Donald L. Stern, Suite 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Operating rights to be purchased: Commodities in bulk, between points within a 20-mile radius of Lincoln, NE, and between points in said radial area, on the one hand, and, on the other, all points in NE. Transferee is a common carrier by motor vehicles authorized to conduct operations in CO, IL, IN, IA, KS, MI, MN, MO, MT, NE, ND, OK, SD, TX, WI and WY. Application has been filed for temporary authority under section 210a(b). (Hearing site: Omaha, NE.)

MC F-14109F. Applicant: HI-WAY LINES, INC., P.O. Box 308, Yreka, Calif. 96097. Applicant's representative: Michael J. O'Neill, P.O. Box 308, Yreka, Calif. 96097. Authority sought for control by Hi-Way Lines, Inc., Oregon and Payne Lane, Yreka, California 96097, of Creager Trucking Co., Inc., 4 N.E. Marine Dr., Portland, Oregon 97217 and for purchase of all of the issued and outstanding stock of Creager Trucking Co., Inc. and for control and acquisition of all of the operating rights of Creager Trucking Co., Inc. by Messrs Owen L. Stidham, Michael J. O'Neill, Donald L. Smith and E. C. Maroder all of Oregon and Payne Lane, Yreka, Calif. as persons in control of applicant. Operating rights sought to be controlled and acquired: *Irregular Routes: Flat glass products,* From Fresno, Fullerton, and Strathmore, CA., Tulsa, OK., and Wichita Falls, TX. to points in Grant, Benton, Chelan, and Yauma Counties, WA., and points in that part of WA. in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania Counties, with no transportation for compensation on return except as otherwise authorized. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with F. L. Hartung Glass Company, Inc., of Seattle, WA. *Irregular Routes: Prepared frankfurters,* From Dallas, TX., to points in CA., OR., WA., and ID., with no transportatin for compensation on return except as otherwise authorized. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Corny Dog Company, of

Dallas, TX. *Irregular Routes: Flat glass products*, Between Seattle, WA., on the one hand, and, on the other, Eugene and Portland, OR. and points in CA. Restriction: The operations authorized herein are limited to the following conditions: Said operations are limited to a transportation service to be performed under a continuing contract, or contracts, with Northwestern Industries, Inc., of Seattle, WA. *Irregular Routes: Iron, steel,* and *aluminum* in bars, sheets, plates, and tubing, Between Los Angeles and Berkeley, CA., Portland, OR., and Kent, WA. *Lumber*, From points in that part of WA. on and east of U.S. Highway 97, to points in CA., with no transportation for compensation on return except as otherwise authorized. *Irregular Routes: Aluminum extrusions*, except those used in the manufacture of mobile homes, motor homes and campers, From points in Los Angeles and San Francisco Counties, CA., to Portland, OR., and Kent, WA. with no transporttation for compensation on return except as otherwise authorized. *MC–136206 (Sub-No. 8 TA) Service Authorized: Flat glass products*, over irregular routes, From the facilities of Guardian Industries Corp., at or near Kingsburg, CA. to points in ID., MT., NV., OR., UT., WA., and AZ. Persons in control of applicant are also in control of an affiliate, Stidham Trucking, Inc., a motor common carrier, operating pursuant to authority issued by the Commission in MC–139380. Operations are conducted within the states of OR., CA., and NV. Therefore, common control may be involved. Dual operations may be involved. Application for temporary authority has been filed under Sec. 210 a (b).

MC–F 14132F. Transferee: CENTURY-MERCURY MOTOR FREIGHT, INC., P.O. Box 43050, St. Paul, MN 55164. Transferor: WESTERN TRANSPORTATION CO., 1300 West 35th Street, Chicago, IL 60609. Transferee's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Transferor's representative: Carl Steiner, 39 South LaSalle Street, Chicago, IL 60603. Authority sought for the purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate MC–52752, as follows: REGULAR ROUTES: *General commodities* (with the usual exceptions), between Iowa City, IA. and Cedar Rapids, IA. as follows: From Iowa City, IA. over U.S. Highway 218 to Cedar Rapids, IA. and return over the same route. Service is authorized to and from all intermediate points. Transferee is authorized to operate as a regular route common carrier between Chicago, IL and Milwaukee, WI, on the one hand, and Dickinson, ND, on the other, serving numerous intermediate points in MN and ND. Application is being filed for temporary authority under Sec. 210a(b). (Hearing site: Chicago, IL.)

MC F–14134F. Authority sought for purchase by MARX TRUCK LINE, INC., 220 Lewis Boulevard, Sioux City, IA 51101 of a portion of the common motor carrier operating rights of Transport Service, Inc., East Highway 18, Gregory, SD 57533. Representative: Robert L. Marx, 220 Lewis Blvd., Sioux City, Iowa 51101. Operating rights sought to be transferred are contained in MC–30224 Subs 15, 16, 21 and part of Sub 23, authorizing the transportation, over irregular routes, (1) Beer, from St. Louis, MO, Peoria, IL, Milwaukee and LaCrosse, WI to Chamberlain, SD; from Milwaukee and LaCrosse, WI, Peoria, IL, St. Louis, MO and New Ulm, MN to Yankton, SD; from Milwaukee, and LaCrosse, WI and Peoria, IL to Huron, SD; (2) Malt Beverages from Minneapolis and St. Paul, MN and Omaha, NE to Yankton, SD; (3) Empty containers on return. Transferee presently holds authority under its lead Docket MC–61401 and Subs thereunder to operate as a Contract Carrier in the States of IL, IN, IA, MN, NE, SD and WI, and as a Common Carrier under its lead Docket MC–118537 and Subs thereunder, in the States of IL, IA, MO, NE and WI. Dual operations have been approved. Application has been filed under Section 11349 by Transferee seeking Temporary Authority to operate the authority sought. The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act. Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure reasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made. Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits. The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC FC–78067 filed March 9, 1979. Transferee: PEPE'S EXPRESS, INC., 17 Michael Road, Hingham, MA 02043. Transferor: Belardino R. Pagnani and Clionidi Pagnani, doing business as Pepe's Express, 30 Salem St., Quincy, MA 02169. Representative: Joseph J. Sullivan, Jr., 17 Michael Road, Hingham, MA 02043. Authority sought for purchase by transferee of operating rights of transferor in Certificate of Registration MC–120212 Sub 1, issued January 22, 1964, authorizing the transportation of general commodities, between points in Massachusetts. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC FC–78080, filed March 21, 1979. Transferor: TRI–CITY CARTAGE, INC. 3032 Millers Lane, Louisville, Kentucky 40216. Transferee: KWESVA, Inc., 4000 Lambert Avenue, Louisville, Kentucky 40243. Representative: Herbert D. Liebman, P.O. Box 478, Frankfort, Kentucky 40602. Authority sought for the purchase by transferee of operating rights held by transferor in Certificate No. MC–144489, issued October 3, 1978, as follows: Glass containers, from Huntington, W. Va. to Louisville, Ky. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC FC–78087, filed: March 16, 1979. Transferee: Richard N. Phillips, d.b.a. P & P TRUCKING COMPANY, Route 1, Box 170, Watauga, TN 37694. Transferor: Street's Trucking Company, Inc., 1121 Bridwell Street, Kingsport, TN 37664. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority wought for the purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC–129404, issued June 23, 1976, as follows: brick, concrete block, cinder blocks, clay products, shale and shale products, concrete and concrete products, and mortar mixes,

from Elizabethton, TN, to points in Alleghany, Bedford, Botetourt, Buchanan, Bland, Carroll, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Henry, Lee, Montgomery, Patrick, Pittsylvania, Pulaski, Roanoke, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe Counties, VA, points in Bell, Breathitt, Clay, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Leslie, Letcher, McCreary, Magoffin, Martin, Owsley, Perry, Pike, Rockcastle, and Whitley Counties, KY, and points in Fayette, Logan, McDowell, Mercer, Mingo, Raleigh, Summers, and Wyoming Counties, WV, with no transportation for compensation on return except as otherwise authorized. Between Elizabethton, TN, on the one hand, and, on the other, Richmond, VA. From Elizabethton, TN, to Louisville, KY, with no transportation for compensation on return except as otherwise authorized. From Elizabethton, TN, to points in Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Catawba, Cherokee, Clay, Davidson, Davie, Forsythe, Guilford, Haywood, Henderson, Iredell, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Randolph, Rockingham, Rowan, Rutherford, Stokes, Surry, Transylvania, Watauga, Wilkes, Yadkin, and Yancey Counties, NC, with no transportation for compensation on return except as otherwise authorized. RESTRICTION: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with General Shale Products Corporation, of Johnson City, TN. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority under 49 USC 11349.

MC FC-78095 filed April 11, 1979. Transferee: FIVE STAR EXPRESS, INC., 935 Grattan St., Chicopee, MA 01020. Trnasferor: R. Lavoie Trucking Co., Same address. Representative: David Marshall, 101 State St., Springfield, MA 01103, and Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought for purchase by transferee of operating rights of transferor in Certificates No. MC 127870 and Subs 2 and 3, issued January 2, 1975, September 12, 1975, and March 11, 1976, authorizing (1) in No. MC 127870, rough lumber, between ports of entry on the United States-Canada Boundary line at or near Champlain and Ogdensburg, NY, and Norton Mills, Derby Line, and Richford, VT, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, and PA, restricted against transportation of traffic originating at points in ME; and dressed lumber, from ports of entry on the United States-Canada Boundary line located at or near Champlain and Ogdensburg, NY, and Norton Mills, Derby Line, and Richford, VT, to points in ME, NH, VT, MA, RI, CT, MD, NY, NJ, and PA, restricted to transportation in foreign commerce only; (2) in No. MC 127870 Sub 2, agricultural commodities, from points in that part of Franklin County, MA, on and west of the Connecticut River, to Albany and Ballston Spa, NY; fresh fruit, in containers, from points in Berkshire, Franklin, and Hampden Counties, MA, and Windham County, VT, to Hudson and Germantown, NY; and empty fruit containers, from Hudson and Germantown, NY, to points in the next above-specified origin territory; logs, from points in Berkshire and Franklin Counties, MA, to Battleboro, VT; and lumber, between points in VT and those in that part of NY on and east on a line beginning at Ogdensburg and extending through Schuyler Park and Port Jervis to the New York-New Jersey State line; between points in the above-described territory on the one hand, and, on the other, points in CT, MA, RI, and those in NJ within 15 miles of New York, NY; and (3) in No. MC 127870 Sub 3, building materials and electrical supplies, between points in MA, NH, VT, and NY, restricted against the transportation of traffic between Colrain, MA, and Buckland, MA. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC-FC-78123 filed May 1, 1979. Transferee: BOUMA CARTAGE CO., 146 Pleasant St., S. W., Grand Rapids, MI 49503. Transferor: Midwest Furniture Transport, Inc., 9442 Calumet Ave., Munster, IN 46321. Authority sought for purchase by transferee of a portion of the operating rights held by transferor in Certificate No. MC 10341 issued September 3, 1959, as follows: New furniture, and household goods, as defined by the Commission, between Chicago, IL, on the one hand, and, on the other, points in IN, and MI within 150 miles of Chicago; and household goods, as defined by the Commission, between South Haven, MI, on the one hand, and, on the other, points in IL and IN. Transferee holds authority from the Commission in Certificates of Registration No. MC 120456 Subs 1 and 2. An application for temporary lease has been filed. Representatives: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933; and Carl L. Steiner, 390 South LaSalle St., Chicago, IL 60603.

MC-FC-78133 filed May 3, 1979. Transferee: GERALD R. PRIEST and HELEN M. PRIEST, d.b.a. G & H TRANSFER, 29 North Webster, Red Cloud, NE 68970. Transferor: Doyt Tophap and Betty Topham, 51 Walnut, Red Cloud, NE 68970. Authority sought for purchase by transferee of operating rights held by transferor in Certificate of Registration No. MC-121809, issued August 28, 1978, authorizing transportation of commodities generally, except those requiring special equipment, other than refrigeration, in regular route operations: From Red Cloud, NE, to Hastings, NE, via US-281, serving Cowles, Blue Hill and Ayr, NE as intermediate points, and Guide Rock, NE as an off-route point. Transferee holds authority from the Commission in Certificate of Registration No. MC-120882 (Sub 2), issued November 15, 1978. An application for temporary lease authority has not been filed.

MC-FC-78213 filed July 5, 1979. Transferee: ELDON V. HAHN, doing business as HAHN TRUCKING, RFD, Tripp, SD 57376. Transferor: Arthur Stoebner, doing business as Arthur Stoebner Trucking, Tripp, SD 57376. Representative: James R. Haar, Box 368, Tripp, SD 57376. Authority sought for purchase by transferee of operating rights of transferor in Certificate No. MC-95620, issued May 16, 1949, authorizing the transportation of livestock, from Tripp, SD, and points within 12 miles of Tripp to Sioux City, IA; and livestock, and animal feeds, from Sioux City, IA, to Tripp, SD, and points within 12 miles of Tripp. Transferee holds no authority from this Commission. An application for temporary lease authority has not been filed.

MC-FC-78223 filed July 2, 1979. Transferee: LOCHNER MOVING, INC., 1610 5th St., NE, Rochester, MN 55901. Transferor: Frank H. Lochner, 807 8th Ave., SE, Austin, MN 55912. Representative: Larry L. Lochner, 1610 5th St., NE, Rochester, MN 55901. Authority sought for purchase by transferee of operating rights of transferor in Permit No. MC-128550 Sub 1, issued June 27, 1967, authorizing the transportation of such commodities as are dealt in by retail department stores, between the sites of retail stores and warehouses of Sears, Roebuck & Co., at Austin, MN, on the one hand, and, on the other, points in Chickasaw, Cerro Gordo, Floyd, Hancock, Howard, Mitchell, Winnebago, and Worth Counties, IA, under contract with Sears, Roebuck and Co., of Chicago, IL. Transferee holds no authority from this Commission. An application for

temporary lease authority has not be filed.

MC FC–78228 filed July 11, 1979. Transferee: BENTON–HECHT MOVING AND STORAGE, INC., 1035 East Walnut, P.O. Box 132, Columbia, MO 65205. Transferor: O'Brien Transfer, Inc., 309 W. Promenade St., Mexico, MO 65265. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102. Authority sought for purchase by transferee of operating rights held by transferor in Certificate No. MC 39392, issued July 20, 1967, authorizing operations as follows: Household goods, from Mexico, MO, and points within 35 miles thereof, to points in IL, IA, and KS; from points in IL, IA, and KS, to Mexico, MO, and points in MO within 75 miles thereof; printing paper, from Mexico, MO, to points in MO within 125 miles thereof; and household goods, as defined by the Commission, between Memphis, MO, on the one hand, and, on the other, points in IA and IL; and between Hannibal, MO, on the one hand, and, on the other, points in IL and IA. Transferee holds no authority from this Commission. An application for temporary lease authority has not been filed.

MC–FC–78233, filed July 23, 1979. Transferee: MAR PAT TRANSPORTATION CORP., 2445 Allen Avenue, Niagara Falls, New York 14303. Transferor: Buffalo Fuel Co., Inc., S–3030 Baker Road, Orchard Park, New York 14127. Representative: William J. Hirsch, 43 Court Street, Buffalo, New York 14202. Authority sought for purchase by transferee of operating rights granted to transferor in MC 144529F as follows: (1) *coke*, from points in Erie County, NY, to points in Connecticut, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia, and (2) *scrap metal*, from points in Connecticut, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia to points in Chautauqua, Erie, Monroe and Onondaga Counties, NY. Tranferee presently holds no authorities from this Commission. Applicant has filed for temporary authority under 49 U.S.C. 11349.

MC–FC–78237, filed July 19, 1979. Transferee: CLAY TRUCKING, INC., R.D. 1, Ephrata, PA 17522. Transferor: Brooke A. Kunkleman, d.b.a., KUNKLEMAN TRUCKING SERVICE, 310 Telford Avenue, West Lawn, PA 19609. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought for the purchase by transferee of operating right of transferor as set forth in (A) Certificate No. MC–117693, issued February 20, 1959, as follows: *Brick*, (1) from Harrisburg, Ephrata and plantsite of Glen-Gery Shale Brick Corp. in Wyomissing, PA, to points in NY; (2) from Wyomissing, Harrisburg and Ephrata, PA to points in CT and MA; (B) Certificate No. MC–117693, Sub 2, issued August 19, 1964, as follows: *Brick*, from Harrisburg, Ephrata and plantsite of Glen-Gery Shale Brick Corp. in Wyomissing, PA, to points in DE and NJ; (C) Certificate No. MC–117693, Sub 3, issued September 9, 1971, as follows: *Brick*, from the plantsite of Webster Brick Co. at Somerset, VA, the plantsite of Washington Brick Co. at Muirkirk, MD, and the plantsite of West Bros. Brick Co. at Fairmont Heights, MD, to points in DE, NJ, NY and PA; (D) Permit No. MC–113097, issued August 21, 1964, as follows: *Chocolate novelties*, in cardboard boxes, from October 1 to April 30, both inclusive, of each year, from Reading, PA, to points in PA, CT, NJ, DE, NY, MD, and DC. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority.

MC–FC–78244, filed July 16, 1979. Transferee: CANUS TRUCKING, INC., 151 Fulton Avenue, White Plains, NY 10606. Transferor: JK Equipment Corp., 151 Fulton Avenue, White Plains, NY 10606. Representative: Larsh B. Mewhinney, Esq., Moore Berson Lifflander & Mewhinney 555 Madison Avenue, New York, NY 10022. Authority sought to transfer all operating rights of transferor in Permit MC–136321 issued September 26, 1974, as follows: *Building materials (except commodities in bulk)*, from points of entry on the United States-Canada boundary line located in various states to named states, limited to service under contracts with Miller Supply Corp., White Plains, NY; Pan-American Building Material Corp., Philadelphia, PA; Prudential Supply Corp., East Dedham, MA; Guardian Purchasing Corp., White Plains, NY; and Metropolitan Wholesale Supply Corp., Chicago, IL; all restricted to traffic having a prior movement by motor carrier from points of origin in Quebec, Canada. Transferee holds no I.C.C. authority. Transferor and transferee are under common control with the named shippers. Application for temporary authority has not been filed.

MC–FC–78245 filed July 13, 1979. Applicant: X-TRAN CORPORATION, 74–08 Ditmars Boulevard, Jackson Heights, NY 11370, Transferor. CLIPPER TRANSPORT SYSTEMS, INC., 1 Mortorano Way, Jersey City, NJ 07305, Transferee. Applicants' representative: Edward M. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528, Attorney for Transferor. Thomas F. X. Foley, Esq., State Highway 34, Colts Neck, NJ 07722, Attorney for Transferee. Authority sought for approval to transfer operating authority held by transferor in Certificate No. MC 144647, issued November 27, 1978, authorizing operations as follows: Irregular routes: *General commodities*, except those of unusal value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and commodities requiring special equipment, between New York, NY, on the one hand, and, on the other, points and places in Mercer, Monmouth, Ocean, Atlantic, Camden and Burlington Counties, and those in Middlesex and Somerset Counties, NJ, south of the Raritan River. *Petroleum and petroleum products*, in tank vehicles, from Carteret, NJ, to Port Jervis, NY, with no transportation for compensation on return. *General commodities*, except those of unusual value, and except dangerous explosives, livestock, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, and commodities in bulk. Between points and places in Hudson and Essex Counties, NJ, on the one hand, and, on the other, points and places in Middlesex, Monmouth, Atlantic, and Ocean Counties, NJ. *General commodities*, except those of unusual value, Classes A and b explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. From New York, NY, to points in Cape May, Cumberland, Gloucester, and Salem Counties, NJ, with no transportation for compensation on return except as otherwise authorized. Transferee holds no authority from this Commission. An application for temporary lease authority has not been filed.

MC–FC–78248 filed July 26, 1979. Transferee: Philip Barbera, d.b.a. B & M Trucking Co., #327 Greenwich St., Reading, PA 19601. Transferor: Frank Mollica, d.b.a. B & M Trucking Co., 503 S. 16½ St. Reading, PA 19606. Authority sought for purchase by transferee of operating rights held by transferor in Permits No. MC 133027 Subs 2 and 4, issued September 10, 1969, and January 19, 1971, authorizing operations over irregular routes in the transporation of corrugated paper and corrugated paper products, between Milltown, NJ, on the one hand, and, on the other, Newark

and Wilmington, DE, Baltimore, MD, New York, NY, points in Delaware, Onondoaga, and Ontario Counties, NY, points in Adams and Northumberland Counties, PA, and points in that part of Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along Interstate Hwy 83 to junction Interstate Hwy 81, thence along Interstate Hwy 81 to the Pennsylvania-New York State line, under contract with Middlesex Container Co., Inc., of Milltown, NJ. Transferee holds no authority from this Commission. An application seeking temporary lease authority has not been filed.

MC-FC-78255, filed July 31, 1979. Transferree: PAYNE, INC., P.O. Box 112, Brandy Station, VA 22714. Transferor: Lambert & Banks, Inc., (John G. Leake, Trustee in bankruptcy), P.O. Box 526, Harrisonburg, VA 22801. Representative: Daniel E. Payne, P.O Box 112, Brandy Station, VA 22714. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Permit MC-139273, issued February 4, 1976, as follows: *Hides*, from Harrisonburg, Stuarts Draft, and Warsaw, VA, to Boston, MA, Wilmington, DE, Newark, NJ, Harland, ME, Whitehorse Junction, VT, Philadelphia, PA, and New York, NY, and points in NH and CT; *scrap metal*, from Harrisonburg, Stuarts Draft, and Warsaw, VA, to points in CT, DE, IL, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, SC, TN, VT, and WV; under continuing contract(s) with Joe E. Stump, of Waynesboro, VA. *Animal and poultry feed, barn snow and oyster shells*, from Baltimore, MD, to points in VA; *wheat, bran, and midds products*, from Washington, DC, to points in VA; *milk replacer*, from Lima, OH, to points in VA; *Vitamins and minerals* used in animal and poultry feed, from Chicago, IL, to points in VA; and *salt and salt products*, from Rittman, OH, and Watkins Glen, NY, to Fairfield, Staunton, Waynesboro, and Weyers Cave, VA, under continuing contract(s) with Augusta Cooperative Farm Bureau, Inc., of Staunton, VA. *Salt and salt products*, from the facilties of Watkins Salt Company, at Watkins Glen, NY, White Marsh, MD, Akron, OH, and Wilmington, NC, to points in VA and WV, restricted to the transportation of shipments which will be stored in transit at the warehouse facilities of Lambert & Banks, Inc., at Fisherville, VA, under continuing contract with Watkins Salt Company, or Watkins Glen, NY. *Lumber*, between points in VA, MD, NC, PA, and WV, restricted against the transportation of shipments originating at points in WV, under continuing contract(s) with National Lumber Company, Inc., of Augusta, GA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

On applications filed before March 1, 1979, an original and one copy of *protests* to the granting of authorities must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall conform with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities.

Applications filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *General Rules of Practice* also but are subject to petitions to intervene either with or without leave. An original and one copy of the petition must be filed with the Commission within 30 days after date of publication. A petition for intervention must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points. Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Verified statements in opposition should not be tendered at this time. A copy of the protest or petition to intervene shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy policy and Conservation Act of 1975.

MC 2509 (Sub-1F), filed May 4, 1979. Applicant: D. S. WOODBERRY COMPANY, 440 Rutherford Avenue, Boston, MA 02129. Representative: James E. Mahoney, 148 State Street, Boston, MA 02109. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting general commodities, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading between points and places in MA, RI, and that part of New Hampshire on and South of a line beginning at Portsmouth, NH and extending along U.S. Highway 4 to Concord, NH, hence along U.S. Hwy. 202 to Hennicker, NH, and hence along a line from Hennicker, NH, through North Walpole, NH to the New Hampshire-Vermont State Line, on the one hand, and, on the other, points in CT except Danielson, New London, Norwich and those bounded by the Connecticut River, Interstate Hwy. 86 and the Connecticut-Massachusetts State Line.

Note.—This application is directly related to purchase application filed in Docket MC-F-14006F. The purpose of this application is to eliminate the gateways of Boston, MA, Holbrook, MA and points within 10 miles of Holbrook, MA.

MC 2900 (Sub-389F), filed: April 6, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: Roland Rice, Esq., 501 Perpetual Building, 1111 E Street, N.W., Washington, DC 20004. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting general commodities, with exceptions, (1) Between points in and west of Brown, Nemaha, Marshall, Washington, Republic, Cloud, Mitchell, Osborne, Ellis, Rush, Ness, Hodgeman, Ford, and Meade Counties, KS, on the one hand, and, on the other, Clarksville, IN, and points in Indiana on the following highways: (a) U.S. Hwy 20; (b) U.S. Hwy 40; (c) U.S. Hwy 50; (d) U.S. Hwy 52 between junction U.S. Hwy 41

and the Indiana-Ohio State line; (e) U.S. Hwy 41 between Vincennes and the Indiana-Illinois State line; (f) U.S. Hwy 24 between junction Indiana Hwy 25 and the Indiana-Ohio State line; (g) U.S. Hwy 31 between Indianapolis and junction U.S. Hwy 31E; (h) U.S. Hwy 31E between junction U.S. Hwy 31 and the Indiana-Kentucky State line; (i) U.S. Hwy 31W between junction U.S. Hwy 31 and the Indiana-Kentucky State line; (j) U.S. Hwy 150 between junction U.S. Hwy 50 and the Indiana-Kentucky State line; (k) U.S. Hwy 35 between junction U.S. Hwy 40 and the Indiana-Ohio State line; (l) Indiana Hwy 28 between junction U.S. Hwy 41 and junction Indiana Hwy 25; (m) Indiana Hwy 25 between junction Indiana Hwy 28 and U.S. Hwy 24; (n) Indiana Hwy 67 between Indianapolis and junction Indiana Hwy 32; (o) Indiana Hwy 32 between junction Indiana Hwy 67 and the Indiana-Ohio State line; Gateway eliminated. Points in IL on and north of U.S. Hwy 40. (2) Between points in NB on the one hand, and, on the other hand, Clarksville, IN, and points in Indiana on the highways set forth in (1) above; Gateway eliminated. Points in IL on and north of U.S. Hwy 40 and south of the northern boundaries of Henderson, Warren, Knox, Stark, Marshall, Putnam, Woodford, Livingston and Kankakee Counties, IL. (3) Between Clarksville, IN, and points in Indiana on the highways set forth in (1) above, on the one hand, and, on the other hand, (a) points in Atchison, Holt, Andrew, Nodaway, Gentry, and Worth Counties, MO, and (b) points in and south of Woodbury, Monona, Shelby, Cass, Adams, Union, and Ringgold Counties, IA. Gateway eliminated: Points in Champaign, Vermilion, Douglas, Edgar, Coles, Cumberland, Fayette, Effingham and Clark Counties, IL on and north of U.S. Hwy 40. (4) Between Clarksville, IN, and points in Indiana on the highways set forth in (1) above, on the one hand, and, on the other, Marysville, MO. Gateway eliminated: Points in IL on and north of U.S. Hwy 40. (5) Between Clarksville, IN and points in Indiana on the highways set forth in (1) above, on the one hand, and, on the other, Clearmont, MO and St. Joseph, MO. Gateway eliminated: St. Louis, MO.

Note.—The purpose of this application is to authorize the joinder of irregular route general commodity operating authority of O.N.C. Freight Systems with irregular route rights presently held by Ryder Truck Lines, Inc., and to eliminate the gateways specified above. This matter is directly related to MC-F-13975F, published in a previous section of this Federal Register issue.

MC 35334 (Sub-79). COOPER-JARRETT INC., extension. Agency: Interstate Commerce Commission. Action: Republication of "extension" application. Summary: This notice informs the public of a pending application for the extension of motor carrier operating rights and invites comments pursuant to a Commission decision in docket No. MC-F-12598. Comments due: Written protests may be submitted to the Commission (at the address below) within 30 days of the date of this publication. Cooper-Jarrett Inc. (C-J) may file verified statements in support of the extension application within 60 days of the date of this publication. Protestants (if any) may file verified statements in opposition to the application within 90 days of the publication date. C-J's rebuttal (if any) is due 110 days from the publication date. Addresses: All written comments should: (1) bear the docket number MC-35334 (Sub-No. 79), (2) refer to this FR notice, and (3) be sent to the following address: Interstate Commerce Commission, Office of Proceedings, Section of Operating Rights, Washington, D.C. 20423. Effective date: The extension application will not become effective until after Commission consideration of the application and any comments filed pursuant to this FR notice. For further information contact: Michael Erenberg, 202-275-7245. Supplementary information: In docket No. MC-35334 (Sub-79), *Cooper-Jarrett Inc., extension*, Cooper-Jarrett Inc. (C-J) filed an application to extend its motor common carrier operating-rights as follows: *Regular routes: 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 Memphis, TN, on the one hand, and, on the other, Cincinnati, OH, serving Cincinnati, OH, for the purpose of joinder only, and serving no intermediate points, (1) from Memphis, TN, over Interstate Hwy 40 to Nashville, TN, then over Interstate Hwy 65 to Louisville, KY, then over Interstate Hwy 71 to its junction with Interstate Hwy 75, and then over Interstate Hwy 75 to Cincinnati, OH, and return over same route; and (2) from Memphis, TN, over US Hwy 51 to its junction with US Hwy 45 located at or near Mayfield, KY, then over US Hwy 45 to Paducah, KY, then over US Hwy 62 to junction with Interstate Hwy 65 located at or near Elizabethtown, KY, then over Interstate Hwy 65 to Louisville, KY, then over Interstate Hwy 71 to junction with Interstate Hwy 75, then over Interstate Hwy 75 to Cincinnati, OH, and return over same route.

In an initial decision served August 2, 1978, in a related proceeding (No. MC-F-12598, *Cooper-Jarrett Inc.—Purchase—Tri-City Express Inc.)*, an Administrative Law Judge dismissed C-J's extension application as moot. However, the Commission (Division 2) reversed the Judge's action on this point in a later decision in No. MC-F-12598 (served April 2, 1979) and ordered that C-J's extension application be considered on its merits. *See* Division 2's decision at pp. 3 and 5.

Further, the Division ordered that C-J's extension application be set for modified procedure and that notice of the extension application be republished in the **Federal Register**. Accordingly, notice of C-J's extension application is now being republished.

Any person interested in or prejudiced by C-J's extension application in No. MC-35334 (Sub-No. 79) may file with the Commission an original and 6 copies of the types of pleadings described in the next paragraph. These persons (protestants) must also file a copy of their pleadings upon applicant C-J and its representative at the following addresses:

Applicant: Cooper-Jarrett Inc., 23 South Essex Ave., Orange, NJ 07051.

Applicant's representative: Irving Klein, 371 Seventh Ave., (Southgate Tower), New York, NY 10001.

Protestants (if any) may submit protests to C-J's extension application within 30 days of the date of this publication. *C-J* may file with the Commission an original and 6 copies of any verified statements in support of its extension application within 60 days of this publication date (with appropriate service of a copy on protestants). *Protestants* may file verified statements in opposition to the application within 90 days of this publication date. *C-J's* rebuttal (if any) will be due 110 days from this publication date. All pleadings shall conform with the requirements of the Commission's *Rules of Practice* (49 CFR Part 1100).

Commission action on C-J's extension application in No. MC-35334 (Sub-No. 79) will follow consideration of the application and any pleadings filed pursuant to this notice.

MC 44605 (Sub-55F), filed April 30, 1979. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, UT 84104. Applicant's Representative: Ann M. Pougiales, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. Authority sought to operate as a common carrier by motor vehicle, over regular routes, transporting: General commodities (except those of unusual

value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between San Francisco, CA and Los Angeles, CA, serving all intermediate points: (A) From San Francisco over U.S. Hwy. 101 to Los Angeles, and return over the same route. (B) From San Francisco over Interstate Hwy. 80 to junction Interstate Hwy. 580, then over Interstate Hwy. 580 to junction Interstate Hwy. 5, then over Interstate Hwy. 5, to Los Angeles, and return over the same route. (C) From San Francisco over Interstate Hwy. 80 to junction Interstate Hwy. 580, then over Interstate 580 to junction CA Hwy. 108, then over CA Hwy. 120 to junction Temporary Interstate Hwy. 5 and CA Hwy. 99, then over Temporary Interstate Hwy. 5 and CA Hwy. 99 to junction Interstate Hwy. 5 at Wheeler Ridge, then over Interstate Hwy. 5 to Los Angeles, and return over the same route. (D) From San Francisco over CA Hwy. 1 to junction U.S. Hwy. 101, then over U.S. Hwy. 101 to junction CA Hwy. 1, then over CA Hwy. 1 to Los Angeles, and return over the same route; (2) Between San Francisco, CA and San Diego, CA, serving all intermediate points: (A) From San Francisco over U.S. Hwy. 101 to junction Interstate Hwy. 5, then over Interstate Hwy. 5 to San Diego, and return over the same route. (B) From San Francisco over Interstate Hwy. 80 to junction Interstate Hwy. 580, then over Interstate Hwy. 580 to junction Interstate Hwy. 5, then over Interstate Hwy. 5 to San Diego, and return over the same route. (C) From San Francisco over U.S. Hwy. 101 to junction CA Hwy. 1, then over CA Hwy. 1 to junction Interstate Hwy. 5, then over Interstate Hwy. 5 to San Diego, and return over the same route; (3) Between Sacramento, CA and Los Angeles, CA, serving all intermediate points and all off-route points within 20 miles of the following route: From Sacramento, CA over Temporary Interstate Hwy. 5 and CA Hwy. 99 to junction Interstate Hwy. 5 at Wheeler Ridge, then over Interstate Hwy. 5 to Los Angeles, and return over the same route; (4) Between Sacramento, CA and San Diego, CA, serving all intermediate points and all off-route points within 20 miles of the following routes: (A) From Sacramento, CA over Temporary Interstate Hwy. 5 and CA Hwy. 99 to junction Interstate Hwy. 5 at Wheeler Ridge, then over Interstate Hwy. 5 to junction Interstate Hwy. 10, then over Interstate Hwy. 10 to junction Interstate Hwy. 15, then over Interstate Hwy. 15 to junction Temporary Interstate Hwy. 15, then over Temporary Interstate Hwy. 15 to junction Interstate Hwy. 15, then over Interstate Hwy. 15 to San Diego, and return over the same route. (B) From Sacramento over Temporary Interstate Hwy. 5 and CA Hwy. 99 to junction Interstate Hwy. 5 at Wheeler Ridge, then over Interstate Hwy. 5 to junction Interstate Hwy. 405, then over Interstate Hwy. 405 to junction CA Hwy. 19, then over CA Hwy. 19 to junction CA Hwy. 1, then over CA Hwy. 1 to junction Interstate Hwy. 5, then over Interstate Hwy. 5 to San Diego, and return over the same route. (Hearing Site: San Francisco and Los Angeles, CA)

Note.—The purpose of filing this application is to convert applicant's Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a finance proceeding docketed No. MC-F-14001F, published in a previous section of this FR Notice.

MC 64600 (Sub-51F), filed March 28, 1979. Applicant: WILSON TRUCKING CORPORATION, P.O. Drawer 2, Fishersville, VA 22939. Representative: Francis W. McInerny, 1000 16th St., NW, Rm. 502, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting (1) *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points and places in the counties of Halifax, Rockingham, Guilford, Alamance, Scotland, Davidson, Stanely, Rowan, Cabbarrus, Iredell, Mecklenburg, Alexander, Catawaba, Lincoln, Gaston, Caldwell, Cleveland, Rutherford, NC; (2) *Yarn*, from points in Gaston County, NC, to Winston Salem, Valdese and Mount Airy, NC; (3) *Waste Bagging*, from points in Gaston County, NC to Henderson, NC. (Hearing Site: Washington, DC or Charlotte, NC.)

Note.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to MC-F-13978F, published in a previous section of this FR issue.

MC 87379 (Sub-21F) (Correction), C. H. HOOKER TRUCKING CO., 1475 Roanoke Avenue, Uhrichsville, OH 44683. Representative: Boyd B. Ferris, 50 West Broad Street, Columbia, OH 43215, published in the **Federal Register** May 31, 1979, at page 31363. The following errors appeared in the publication: In one portion of the authority involving Houston, Mississippi, the abbreviation Maine has been included twice. The initial inclusion is incorrect, and should be the abbreviation for Michigan. The explanatory note should have read as follows:

Note.—The purpose of this application is to eliminate the *gateway* points in Tuscarawas County, OH. This matter is directly related to a finance proceeding docketed MC-F-13952.

MC 109397 (Sub-434F) (Correction), TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: Anthony N. Jacobs, P.O. Box 113, Joplin, MO 64801, republished in the July 16, 1979, issue of the **Federal Register**, at page 41408. The following errors appeared in the republication: In Item 27, the state of Indiana is missing; in Item 34 Iowa appears as Louisiana with Louisiana shown twice; in Item 59 North Dakota is shown as North Carolina with North Carolina appearing twice.

Note.—This matter is directly related to MC-F-13956F.

MC 112070 (Sub-19F), filed April 8, 1979. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl Street, Denver, CO 80210. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and WY, on the one hand, and, on the other, points in AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and WY. This matter is directly related to Docket No. MC-F-13924F, published in a previous section of this FR issue. (Hearing Site: Denver, CO).

Note.—The purpose of this application is to eliminate the gateway points in AL, AR, and Ft. Smith, AR, Denver, CO, GA, IL, IN, IA, KS, MA, MS, MO, NE, NM, NC, OH, OK, and Enid, OK, and 90 miles, Easton, PA and 15 miles, TN, TX, UT, and Box Elder and Weber Counties, UT, and WI.

MC 112304 (Sub-198F), filed May 2, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, Ohio 45223. Representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a motor common carrier, over irregular routes, in the transportation of: (1) *Commodities*, the transportation of which because of their size and weight, require the use of special equipment between points in TN, on the one hand, and, on the other, those in CT, IL, IN,

KY, MA, MD, MI, NH, NJ, NY, OH, PA, RI, TX, VT, WV, WI, DC and those in VA north and west of a line beginning at the WV–VA State line and extending along U.S. Hwy 60 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the VA–DC boundary line (gateways to be eliminated in Grant or Gallatin Counties, KY). (2) *Commodities,* the transportation of which because of size or weight require special handling and the use of special equipment and/or self-propelled articles each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to self-propelled articles which are transported on trailers) from points in TN to points in CA, NV and UT. Restricted against the transportation to UT and NV of commodities which because of size or weight require special handling and the use of special equipment used in or in connection with the construction, maintenance, repair, operations, servicing or dismantling of pipelines (gateways to be eliminated in Grant or Gallatin Counties, KY). (3) Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies, moving in connection therewith between points in TN, on the one hand, and, on the other, points in IN, KY, MI, NJ, NY, OH, PA, TX, VA, WV, WI and those in IL on and north of a line beginning at the IL–IN State line and extending along U.S. Hwy 36 to junction IL Hwy 125, then along IL Hwy 125 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the IL–MO State Line (gateways to eliminated in Grant or Gallatin Counties, KY). (4) *Precast reinforced concrete tranching systems,* and *parts and accessories* of the described items which by reason of their size and weight require the use of special equipment from points in TN to points in the U.S. including AK but excluding HI (gateway to be eliminated in Gallatin County, KY). (5) *Wrecked or disabled motor vehicles* which because of their size and weight require the use of special equipment between points in TN, on the one hand, and, on the other, points in OH, WV, IN and KY within 150 miles of Cincinnati, OH, including Cincinnati, OH (gateways to be eliminated in Grant or Gallatin Counties, KY). (6) *Refractories* which because of their size and weight require the use of special equipment between points in TN, on the one hand, and, on the other, points in Audrain, Callaway and Montgomery Counties, MO (gateways to be eliminated in Grant or Gallatin Counties, KY). (7) *Refrigeration, air conditioning,* and *heating systems* and *parts and components thereof* which because of their size and weight require the use of special equipment from Beardstown and Danville, IL to points in TN (gateways to be eliminated in Grant or Gallatin Counties, KY).

Note.—This application is directly related to MC–F–14009F, published in the June 8, 1979, issue of the FR. The purpose of filing this application is to eliminate the gateways specified above.

MC 112713 (Sub-280F), filed April 20, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representatives: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. John M. Records, P.O. Box 7270, Shawnee Mission, KS 66207. Authority sought to operate as a *common carrier,* by motor vehicle over regular routes transporting: *General commodities,* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, commodities of unusual value and those requiring special equipment), between San Francisco, CA and Santa Rosa, CA, serving all intermediate points except San Rafael on the following route, and serving the off-route points in Sonoma and Napa counties, CA within 25 miles thereof: From San Francisco over U.S. Hwy 101 to Santa Rosa and return. Serving as off-route points in connection with carrier's regular route operations, those points in Placer County, CA within 25 miles of the junction of Interstate Hwy 80 and CA Hwy 99. (Hearing site: San Francisco, CA; Sacramento, CA.) The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity. It is directly related to Yellow Freight System, Inc.—Purchase (Portion)—City Drayage, No. MC–F–13996F.

Note.—Common Control may be involved.

MC 138896 (Sub-13F), filed June 3, 1979. Applicant: AJAX TRANSFER COMPANY, 550 E. 5th St. So., So. St. Paul, MN 55075. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, in the transportation of frozen foods and poultry commodities, from points in MN, to points in CT, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. Gateways eliminated: Faribault and St. Charles, MN.

Note.—This application is directly related to a finance proceeding, docketed at No. MC–F–14045F, published in a previous section of this Federal Register issue. The purpose of filing this application is to eliminate the gateway as specified above.

MC 141775 (Sub-1F), filed May 30, 1979. Applicant: C AND W HORSE TRANSPORTATION, INC., 223 Pond Street, Franklin, MA 02038. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Horses,* other than ordinary horses, and, in the same vehicle therewith, mascots, personal effects of attendants, and supplies and equipment used in the care, maintenance and exhibition of such horses, between points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, PA, MD, OH, KY, WV, VA, NC, and SC, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, LA, MI, MS, MO, TN, and TX. (Gateways eliminated: points in SC and KY).

Note.—This application is directly related to a transfer application filed under Section 10926 of the Interstate Commerce Act in Docket No. MC–FC–78187, published in the Federal Register issue of August 8, 1979. The purpose of this application is to eliminate the gateways as noted above.

MC 144710 (Sub-2F), filed April 9, 1979. Applicant: MONROE CONTRACTORS EQUIPMENT, INC., 1640 Penfield Rd., Rochester, NY 14625. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities which because of weight or size require the use of special equipment,* between Monroe, Ontario, Wayne, and Yates Counties, NY, on the one hand, and, on the other all points in OH.

Note.—The purpose of this application is to eliminate the gateway of Rochester, NY. This is a matter directly related to Section 5 finance proceeding in MC–F–13987F. (Hearing site: Syracuse, NY.)

MC 146193 (Sub-4F), filed April 20, 1979. Applicant: CAMPBELL GRAIN CORPORATION, Box 94, Humeston, IA 50123. Representative: Thomas E. Leahy, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* over irregular routes, in the transportation of *liquid soil conditioners* from the facilities of Carpenter Sales, Inc., at or near Bonduant IA, to points in, AL, AZ, AR, CA, CT, DE, FL, GA, IL, IN, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, and WI, restricted to traffic originating at the named origin point and destined to the named destination points.

Note.—The purpose of this application is to convert the authority sought to be purchased from contract carrier authority to common carrier authority. This matter is directly related to MC–FC 78155, published in the July 16, 1979, issue of the **Federal Register** issue.

MC 148084, filed July 17, 1979. Applicant: WESLEY A. BRYAN d.b.a., BRYAN MOVING & STORAGE, P.O. Box 95, Beltsville, MD 20705. Representative: PAUL F. SULLIVAN, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting household goods, as defined by the Commission, between Washington, DC, on the one hand, and, on the other, points in CT and MA.

Note.—The above application seeks to remove a gateway (New York, N.Y., commercial zone) and is filed in conjunction with No. MC–FC–78231, published in a previous section of this **Federal Register** issue.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 29555 (Deviation No. 36), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, MN 55104, filed August 8, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over deviation routes as follows: (1) from Rockford, IL, over U.S. Hwy 51 to junction U.S. Hwy 30, then over U.S. Hwy 30 west to Cedar Rapids, IA, and (2) from Rockford, IL, over U.S. Hwy 51 to junction Interstate Hwy 80, then west over Interstate Hwy 80 to Des Moines, IA, then return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Rockford, IL, over U.S. Hwy 20 to Independence, IA, then over Iowa Hwy 150 to Cedar Rapids, IA, and (2) from Rockford, IL, over U.S. Hwy 20 to Waterloo, IA, then over U.S. Hwy 63 to junction U.S. 6, then over U.S. Hwy 6 to Des Moines, IA, and return over the same routes.

MC 29555 (Deviation No. 37), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, MN 55104, filed August 10, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over deviation routes as follows: from Rockford, IL, over U.S. Hwy 51 to junction Interstate Hwy 55 near Bloomington, IL, then over Interstate Hwy 55 to St. Louis, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Rockford, IL, over U.S. Hwy 20 to the Chicago city limits, then over Interstate Hwy 294 to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction U.S. Hwy 52, then over U.S. Hwy 52 to LaFayette, IN, then over U.S. Hwy 231 to Crawfordville, IN, then over Indiana Hwy 47 to junction U.S. Hwy 41 then over U.S. Hwy to Vincennes, IN, then over U.S. Hwy 50 to St. Louis, MO, and return over the same route.

MC 55778 (Deviation No. 5), MOTORFRATE DISPATCH, INC., 16360 Broadway, Maple Heights, OH 44137, filed June 18, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation route as follows: From Cleveland, OH, over Interstate Hwy 71 south to junction Interstate Hwy 270 (Columbus, OH), then west over Interstate 270 to junction Interstate Hwy 70, then west over Interstate Hwy 70 to Indianapolis, IN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Cleveland, OH, over Ohio Hwy 254 to junction Ohio Hwy 57, then over Ohio Hwy 57 to Elyria, OH, then over Ohio Hwy 113 to Milan, OH then over U.S. Hwy 250 to Sandusky, OH, then over U.S. Hwy 6 to Bryan, OH, then over Ohio Hwy 34 to Edon, OH, then over Ohio Hwy 49 to junction U.S. Hwy 20, then over U.S. Hwy 20 to South Bend, IN, then over U.S. Hwy 31 to Indianapolis, IN, and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Indiana Docket No. 11683–A, 1, filed May 23, 1979. Applicant: OVERLAND CONTRACT CARRIERS CORP., 521 South West St., Indianapolis, IN 46204. Representative: Robert L. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Property, between all points in the State of Indiana. Intrastate, interstate and foreign commerce authority sought. HEARING: Monday, October 22, 1979, 9:00 A.M. EST, Room 907, State Office Bldg. Requests for procedural information should be addressed to Public Service Commission of Indiana, Room 901 State Office Bldg., Indianapolis, IN 46204, and should not be directed to the Interstate Commerce Commission.

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC–115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication effective date.

HG–20–79 (Special Certificate—used Household Goods), filed August 14, 1979. Applicant: WEATHERS BROTHERS TRANSFER CO., INC., 921 East Forsyth St., Jacksonville, FL 32202. Representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. Authority sought: Between points in Baldwin, Barbour, Bullock, Butler, Choctaw, Clarke, Coffee, Conecuh, Covington, Crenshaw, Dale, Dallas, Escambia, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Marengo, Mobile, Monroe, Montgomery, Perry, Pike, Russell, Sumter, Washington, and Wilcox Counties, AL, Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bullock, Calhoun, Camden, Candler, Charlton, Chatham, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Effingham, Emanuel, Evans, Glynn, Grady, Houston, Irwin, Jeff Davis, Johnson, Lanier, Laurens, Lee, Liberty, Long, Lowndes, McIntosh, Macon, Marion, Miller, Mitchell, Montgomery, Muscogee, Peach, Pierce, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Treutlen, Turner, Twiggs, Ware, Wayne, Webster, Wheeler, Wilcox, and Worth Counties, GA, and the State of Florida, serving the U.S. Coast Guard, Aviation Training Center, Mobile, AL, Fort Rucker, Ozark, AL, The U.S. Coast Guard Air Station, Miami, FL, Marine Corps Reserve Training Center, Orlando, FL, U.S. Coast Guard Air Station, St. Petersburg, FL, Marine Corps Reserve Training Center, Tallahassee, FL, Eglin Air Force Base, Ft. Walton Beach, FL, Marine Corps Reserve Training Center, Tampa, FL, Homestead Air Force Base, Homestead, FL, U.S. Naval Air Station (Cecil Field) Jacksonville, FL, McCoy Air Force Base, Orlando, FL, U.S. Naval Air Station, Jacksonville, FL, MacDill Air Force Base, Tampa, FL, U.S. Naval Air Station, Pensacola, FL, Marine Corps Reserve Training Center, Miami, FL, U.S. Naval Auxiliary Air Station, Milton, FL, U.S. Naval Station, Key West, FL, U.S. Navy Fuel Depot, Jacksonville, FL, U.S. Naval Station, Mayport, FL, U.S. Naval Marine Corps Reserve Training Center, Riviera Beach, FL, U.S. Naval Training Center, Orlando, FL, U.S. Naval Ship Research & Development Laboratory, Panama City, FL, Patrick Air Force Base, Cocoa Beach, FL, Tyndall Air Force Base, Panama City, FL, U.S. Naval Ordnance Laboratory Test Facility, Ft. Lauderdale, FL, U.S. 7th Coast Guard District, Miami, FL, U.S. Marine Corps Supply Center, Albany, GA, U.S. Navy Submarine Base, Kings Bay, GA, Moody Air Force Base, Valdosta, GA, Turner Air Force Base, Albany, GA, U.S. Naval Air Station, Albany, GA, U.S. Naval Air Station, Glynco, GA.

HG–21–79 (Special Certificate—used Household Goods), filed August 21, 1979. Applicant: NORTH ALABAMA MOVING AND STORAGE, INC., 1018 Putnam Dr., Huntsville, AL 35805. Representative: Howard Martin (address same as applicant). Authority sought: Between Marshall, Giles, Lincoln, Franklin, Maury, Lewis, Lawrence, Wayne, and Hardin Counties, TN, and Madison, Limestone, Morgan, Marshall, Lawrence, Jackson, Franklin, Colbert, and Lauderdale Counties, AL, serving Redstone Arsenal, AL.

Transportation of "Waste" Products for Reuse or Recycling

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in *"Waste" Products*, Ex Parte No. MC–85, 124 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication effective date.

P–8–79 (Special Certificate—Waste Products), filed August 20, 1979. Applicant: DON PAFFILE d/b/a PAFFILE TRUCK LINES, 5835 North and South Highway, Lewiston, ID 83501. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. Sponsors: Paper Fibres Corporation of Vashon, WA; Ideal Paper Stock Company of Seattle, WA; Yaste Transportation of Hoquiam, WA; Sutton Salvage of Lewiston, ID; Adams Dismantling, Inc., of Mattaws, WA; and Joseph Simon & Sons, Inc., of Tacoma, WA. Commodities: Waste products.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–27987 Filed 9–6–79; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also

in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 989 (Sub-35TA), filed July 16, 1979. Applicant: IDEAL TRUCK LINES, INC., P.O. Box 330, Norton, KS 67654. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment) between Kansas City, MO and its commercial zone and Topeka, KS and its commercial zone, from Kansas City, MO over Interstate Hwy 70 to Topeka, KS and return over the same route, for 180 days, common carrier; 90-day ETA filed simultaneously. This application is to reduce the amount of circuitous mileage traveled to better conserve dwindling fuel supply without reducing the service. A grant would assist the applicant in making this operation more efficient and economical. Supporting shipper(s): No certificates of support filed with this application. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 2368 (Sub-96TA), filed June 8, 1979. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, Richmond, VA 23204. Representative: William T. Marshburn, same address as above. (1) Ethylene Glycol, in bulk, in tank vehicles, (2) Spent Glycol, in bulk, in tank vehicles (1) from Plaquemine and Taft, LA and Wilmington, NC to Moncure, NC (2) from Moncure, NC to Bayport and Houston, TX RESTRICTION: (1) Restricted on traffic at Wilmington, NC having a prior movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Chemical Corporation, 1411 Broadway, New York City, New York 10018. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 2368 (Sub-97TA), filed July 5, 1979. Applicant: BRALLEY-WILLETT TANK LINES, INC., P.O. Box 495, 2212 Deepwater Terminal Road, Richmond, VA 23204. Representative: William T. Marshburn, P.O. Box 495, Richmond, VA 23204. *White Oil, in bulk, in tank vehicles,* from Martinsville, VA to Chattanooga, TN and Camden, SC and their commercial zones, for 180 days. Supporting shipper(s): E. I DuPont de Nemours & Co., Inc., 1007 Market Street, Wilmington, DE 19898. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 18088 (Sub-63TA), filed August 1, 1979. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., P.O. Drawer 8, Sycamore, AL 35149. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW, Washington, DC 20036. *Textiles and textile products, and machinery, machinery parts, equipment, materials and supplies used in or in connection with the operation of textile mills and warehouses,* except commodities the transportation of which because of size or weight require the use of special equipment for the transportation thereof, between Fountain Inn, SC, on the one hand, and on the other, points in LA, MS, NC, and SC. Restricted to traffic moving to and from the facilities of Schott International, Inc. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schott International, Inc. 1340 East Archwood, Akron, OH 44306. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 22278 (Sub-55TA), filed June 21, 1979. Applicant: TAKIN BROS. FREIGHT LINE, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address 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 commodities requiring special equipment) between Chicago, IL, on the one hand, and, on the other, points in IN and Louisville, KY, serving Chicago, IL, as a point of joinder with carrier's presently authorized routes, for 180 days. Restricted against the transportation of traffic originating at or destined to Chicago, IL, and points in its commercial zone on the one hand, and, on the other, points in IN and Louisville, KY, and its commercial zone. Applicant intends to tack with authority in MC-22278 and MC-30311 and interline at Kansas City, MO; Omaha, NE; Chicago and Moline, IL; Des Moines, Waterloo, and Mason City, IA; Minneapolis and St. Paul, MN; LaCrosse, WI; Cleveland, OH; and New York, NY. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 17 shippers. Their statements may be examined at the office listed below and at Headquarters. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 22509 (Sub-20TA), filed June 29, 1979. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Ave., St. Joseph, MO 64505. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. *Insulation and insulation materials,* from the facilities of Owens-Corning Fiberglas Corporation at Kansas City, KS and Pauline, KS to points in IL, IA, MO and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43569. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 23618 (Sub-53TA), filed June 26, 1979. Applicant: McALISTER TRUCKING COMPANY, d.b.a. MATCO, P.O. Box 2377, 2041 S. Treadway Blvd., Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125 Exchange Park, Dallas, TX 75245. *Building materials* between the facilities of Bird & Son, Inc. in Shreveport, LA to points in TX for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 23618 (Sub-55TA), filed May 8, 1979. Applicant: McALISTER TRUCKING COMPANY, d.b.a. MATCO, P.O. Box 2377, 2041 S. Treadaway Blvd., Abilene, TX 79604. Representative: D. Paul Stafford, Suite 1125, Exchange Park, Dallas, TX 75245. *Machinery, materials, equipment, and supplies, incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum,* between Miami, OK and Joplin, MO, for 180 days. Applicant intends to tack the authority sought herein with other authority held by applicant and authority sought to be purchased in MC-71125 (Sub No. 1), and intends to interline with other carriers at Joplin, MO. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 5 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 29079 (Sub-122TA), filed April 26, 1979. Applicant: BRADA-MILLER FREIGHT SYSTEM, INC., 1210 S. Union Street, Kokomo, IN 46901. Representative: Keith G. O'Brien, 1729 H Street, NW, Washington, DC 20006. *Send and send additives* (except commodities in bulk, in tank vehicles), from the facilities of Acme Resin Company at or near Oregon, IL, to

points in CT, KY (except Louisville), MA, MO, NH, NJ, NY (on and east of U.S. Hwy 62), PA (on and east of U.S. Hwy 219), RI, VA and WV (except points in Hancock, Marshall and Ohio Counties), WI, IA, points in the Lower Peninsula of MI and IN (except Kokomo and points within 50 miles thereof), for 180 days. Supporting shipper(s): CPC International, Inc., International Plaza, Englewood Cliffs, NJ 07632. Send protests to: Beverly J. Williams, ICC, 46 E. Ohio Street, Room 429, Indianapolis, IN 46204.

MC 31879 (Sub-36TA), filed July 5, 1979. Applicant: EXHIBITORS FILM DELIVERY & SERVICE, INC., 101 West 10th Ave., North Kansas City, MO 64116. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Personal care products, nutritional supplements and foods, and cleaning compounds,* between the facilities of the Shaklee Corp. located at or near Dallas, TX, on the one hand, and, on the other, points in KS, MO and NE, for 180 days. Supporting shipper(s): Shaklee Corporation, 1900 Powell Street, Emeryville, CA 94608. Send protests to: Vernon V. Coble, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 31879 (Sub-37TA), filed July 5, 1979. Applicant: EXHIBITORS FILM DELIVERY & SERVICE, INC., 101 West 10th Avenue, North Kansas City, Mo 64116. Applicant's Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Authority is sought to operate as a common carrier, by motor vehicle, in interstate and foreign commerce, over irregular routes transporting greeting cards and related products* between the facilities of American Greetings Corporation, located at or near Osceola, AR and Danville, KY, on the one hand, and, on the other, points in Missouri, Kansas, Nebraska, points in Boone and Carroll Counties, AR; Lee County, IA; Weld, Adams, Denver, Jefferson, Douglas, El Paso, Freemont, Pueblo, Huerfano, Las Animas, Logan, Sedgwick, Phillips, Morgan, Washington, Yuma, Araphahoe, Elbert, Lincoln, Kit Carson, Cheyenne, Crawley, Kiowa, Otero, Bent, Prowers, and Baca Counties, CO; Laramie and Goshen Counties, WY; points in Illinois within the St. Louis, MO-East St. Louis, IL commercial zone as defined by the Commission, those in Cook, Kane, Dupage and Will Counties, IL, and those in that part of Illinois bounded on the west by the Mississippi River, and on the east, north and south by a line beginning at Chester, IL and extending along Illinois Highway 150 to Junction Illinois Highway 154, thence along Illinois Highway 154 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Illinois Highway 15 thence west along Illinois Highway 15 to junction Illinois Highway 127 thence north along Illinois Highway 127 to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction U.S. Highway 51, thence north along U.S. Highway 51 to Decatur, IL, thence west along U.S. Highway 36 to Springfield, IL, thence along combine U.S. Highways 36 and 54 to junction U.S. Highway 36, and thence along U.S. Highway 36 to the Mississippi River, including points on the indicated portions of the highways specified, and those points in that part of New Mexico in and on a line beginning at the northwest corner of Colfax County, NM, at the Colorado–New Mexico State line and extending along the western boundary of Colfax County to the western boundary of Mora County, thence along the western boundary of Mora County to the boundary of Santa Fe County, NM, thence in a northerly and westerly direction along the Santa Fe County boundary to the boundary of Los Alamos County, NM, thence in a northerly and westerly direction along the Los Alamos County boundary until that boundary meets the Santa Fe County boundary at the southern tip of Los Alamos County, thence along the Santa Fe County boundary in junction combined U.S. Highway 85 and Interstate Highway 25, thence along combined U.S. Highway 85 and Interstate Highway 25 to junction U.S. Highway 60, thence along U.S. Highway 60 to the New Mexico-Texas State line, and thence along the New Mexico state line in a northerly and westerly direction to the point of beginning, restricted to the transportation of single pieces that do not exceed 100 pounds in weight, for 180 days. Supporting shipper(s): American Greetings Corporation, 10500 American Road, Cleveland, OH 44144. Send protests to: Vernon V. Coble, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 41849 (Sub-46TA), filed June 26, 1979. Applicant: KEIGHTLEY BROS., INC., 3675 Chouteau Ave., St. Louis, MO 63110. Representative: Patrick M. Browne, address same as applicant. (1) Foundry sand additives from St. Louis, MO to Camden and Pulaski, TN; (2) Bentonite from Aberdeen, MS to St. Louis and Washington, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M. A. Bell Company, P.O. Box 324, St. Louis, MO 63166. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 42828 (Sub-16TA), filed July 30, 1979. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine Street, Barre, VT 05641. Representative: William L. Rossi, same address as applicant. *GRANITE (restricted to export shipments)* from Barre, VT to Portland, ME, Portsmouth, NH, Boston, MA, Philadelphia, PA, Baltimore, MD and Camden NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rock of Ages Corporation, Barre, VT 05641. Send protests to: Carol A. Perry, ICC, PO Box 548, Montpelier, VT 05602.

MC 43038 (Sub-482TA), filed July 26, 1979. Applicant: COMMERICAL CARRIERS, INC., 20300 Civic Center, 4th Floor, Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones, 20300 Civic Center Drive, 4th Floor, Box CS 5027, Southfield, MI 48037. Motor Vehicles, except trailers, in secondary movement in truckaway service; between Birmingham, AL and points in FL. For 180 days. Supporting shipper(s): Chrysler Corporation, P.O. Box 1976, Detroit, MI and General Motors Corporation, 755 W. Big Beaver Road, Troy, MI 48084. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933. An underlying ETA seeks 90 days authority.

MC 44989 (Sub-7TA), filed July 16, 1979. Applicant: WILLIAMS TRUCK LINE, INC., P.O. Box 143, Audubon, IA 50025. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Meats, meat products, meat by-products and articles distributed by meat packinghouses and dairy products, as described in Sections A, B and C of Appendix I to the report in Description in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides, skins and commodities in bulk)* from the facilities utilized by John Morrell & Co., at or near Estherville and Sioux City, IA; Sioux Falls, SD; and Worthington, MN to points in AZ and CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 48948 (Sub-17TA), filed July 3, 1979. Applicant: THE HOCKING CARTAGE COMPANY, R.R. 2, Box 373, Logan, OH 43138. Representative: Robert W. Gardier, Jr., 100 East Broad St., Columbus, OH 43215. *Bulk soda ash,* between Sweetwater County, WY, to General Electric Company Glass Plants

at or near Jackson, MS; Lexington and Somerset, KY; Logan, Bucyrus, Cleveland and Niles, OH; and Bridgeville, PA, for 180 days. Supporting shipper(s): General Electric Co., 4504 Nela Park, Cleveland, OH 44112. Send protests to: D/S, I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 48958 (Sub-190TA), filed July 5, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero, same address as applicant. *Common* carrier: *regular* routes: *General commodities, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles requiring the use of special equipment,* serving all points within 30 miles of San Fidel, NM, north of Interstate Hwy 40 (US Hwy 66), as off-route points in connection with carrier's existing regular-route operations, for 180 days. Applicant intends to tack, but not interline this authority. Supporting Shipper(s): Sohio Natural Resources Co., P.O. Box 25201, Albuquerque, NM 87125; Kerr-McGee Nuclear Corp., Kerr-McGee Center, Oklahoma City, OK 73125; Anaconda Co., Jack Pile Mine, Laguna, NM; Bokum Resources Corp., P.O. Box 1833, Santa Fe, NM 87501. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 48958 (Sub-191TA), filed July 25, 1979. Applicant: ILLINOIS CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Common* carrier: *regular* routes: *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 the use of special equipment,* between El Paso, TX and Roswell, NM; from El Paso, TX, over combined U.S. Hwys 60, 85 and and 180 (also over Interstate Hwys 10 and 25) to Las Cruces, NM, then over combined U.S. Hwys 70 and 82 to junction U.S. Hwy 54, then over U.S. Hwy 54 to Tularosa, NM then over U.S. Hwy 70 to Roswell, NM and return over the same routes, serving all intermediate points for 180 days. Applicant intends to tack the authority sought and to interline with other carriers. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): 28 supporting statements may be seen at the field office or Washington, D.C. headquarters. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 48958 (Sub-192TA), filed July 25, 1979. Applicant: ILLINOIS CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero. *Common* carrier: *regular* 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 requiring the use of special equipment,* between El Paso, TX and Phoenix, AZ; from El Paso, TX over Interstate Hwy 10 to Phoenix, AZ and return over the same route, serving the intermediate points of Las Cruces, NM and Tucson, AZ for 180 days. Applicant intends to tack this authority and to interline with other carriers at Tucson, AZ. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): 39 supporting statements may be seen at the field office or Washington, D.C. headquarters. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 55898 (Sub-60TA), filed July 10, 1979. Applicant: DECATO BROS., INC., Heater Rd., Lebanon, NH 03766. Representative: David M. Marshall, Marshall and Marshall, 101 State St.—Suite 304, Springfield, MA 01103. *Lumber, lumber products, and finished forest products,* from the facilities of MacMillan Bloedel Building Materials, located at or near Edenton, NC to points in VA, WV, OH, PA, MD, DE, DC, NJ, NY, CT, RI, MA, VT, NH, and ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): MacMillan Bloedel Building Materials, 6540 Powers Ferry Rd., Atlanta, GA 30339. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 56388 (Sub-35TA), filed June 21, 1979. Applicant: HAHN TRANSPORTATION, INC., New Market, MD 21774. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Bethesda, MD 20014. *Granule dust filler,* in bulk, in pneumatic vehicles, from plantsite of G.A.F. Corp. at or near Blue Ridge Summit, PA to plantsite of Tomko Corp., Lime Kiln, MD, for 180 days. Supporting shipper(s): TAMKO CORP., Route 9, Box 248, Frederick, MD 21701. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 56679 (Sub-124TA), filed June 14, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave. SW., Atlanta, GA 30310. Representative: David L. Capps (same as applicant). *Foodstuffs (except in bulk)* from Lake City, PA to Greenville, MI, Plover, WI, Syracuse, NY, Kansas City, KS, Burley, ID, Ontario, OR, Dallas, TX and Allentown, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Rm. 300, Atlanta, GA 30309.

MC 56679 (Sub-125TA), filed June 27, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave. SW., Atlanta, GA 30310. Representative: David L. Capps (same as applicant). *Such merchandise as is dealt in or used by wholesale, retail and chain grocery and food business houses and equipment, materials and supplies used in the conduct of such business* from the facilities of the Kroger Co., at or near Columbus and Cincinnati, OH to Dallas and Houston, TX, Memphis, TN and Roanoke, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 56679 (Sub-126TA), filed June 29, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Avenue, SW., Atlanta, GA 30310. Representative: Leonard S. Cassell, (same as applicant). *General commodities, usual exceptions* (a) between New Bern, NC and Norfolk, VA, from New Bern, NC over U.S. Hwy 17 to junction U.S. Hwy 13, then over U.S. Hwy 13 to Norfolk and return over the same route, serving all intermediate points, (b) between Sanford, NC and Norfolk, VA from Sanford, NC over U.S. Hwy 1 to Raleigh, NC, then over U.S. Hwy 64 to junction Interstate Hwy 94 to Roanoke Rapids, NC, then over U.S. Hwy 158 to junction U.S. Hwy 258, then over U.S. Hwy 258 to junction U.S. Hwy 58, then over U.S. Hwy 58 to Norfolk and return over the same route, serving all intermediate points, (c) between Roanoke Rapids, NC and Norfolk, Hampton and Newport News, VA, from Roanoke Rapids, NC over Interstate Hwy 95 to Emporia, VA then over U.S. Hwy 58 to Norfolk, VA then over Interstate Hwy 64 to Newport News, VA and return over the same route serving all intermediate points and points in the commercial zone of authorized points for 180 days. Supporting shipper(s): No shipper support. Based on Gateway Elimination on traffic presently being handled through circuitous routing. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309. An underlying ETA seeks 90 days authority.

Note.—Applicant proposes to interline at Norfolk, VA and proposes to Tack the authority sought here with its existing operating authority.

MC 56679 (Sub-130TA), filed July 5, 1979. Applicant: BROWN TRANSPORT

CORP., 352 University Ave. SW., Atlanta, GA 30310. Representative: David L. Capps (same as applicant). *Lawn care equipment and materials, supplies and equipment used in the manufacture, distribution and sale of lawn care equipment* from New Holstein, WI to Williamsburg, KY and Orangeburg, SC, (2) between McRae, GA, Swainsboro, GA, Williamsburg, KY, Orangeburg, SC and Pickens, SC, and (3) from points in OH to Williamsburg, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roper Lawn Products, 12052 Middleground Rd., Savannah, GA 31406. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Rm 300, Atlanta, GA 30309.

MC 57239 (Sub-46TA), filed May 22, 1979. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46225. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Common carrier: over regular route: General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Indianapolis, IN and Evansville, IN: From Indianapolis over IN Hwy 67 to Junction IN Hwy 57, then over IN Hwy 57 to Junction U.S. Hwy 41, then over U.S. Hwy 41 to Evansville, and return over the same route, serving no intermediate points. Supporting shipper(s): (29). Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

Note.—Applicant intends to serve the commercial zone of Evansville, IN and will tack the requested authority with existing authority in MC-57239 at Indianapolis and Evansville, IN to perform through, direct, single-line authority and points in the United States for 180 days.

MC 59909 (Sub-14TA), filed July 5, 1979. Applicant: JACOBS TRANSFER, INC., 2300 Beaver Rd., Landover, MD 20785. Representative: Francis W. McInerny, 1000 Sixteenth Street, NW., Washington, DC 20036. *Manufactured tobacco products and related materials and supplies* between Arlington, VA, on the one hand, and on the other, points in MD and DE east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brown & Williamson Tobacco Corp., 1600 West Hill St., Louisville, KY 40201. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 64499 (Sub-4TA), filed June 28, 1979. Applicant: AMERICAN PACIFIC STAGE COMPANY, 620 Vance Pl., Suite B, Santa Ana, CA 92701. Representative: Murchison & Davis, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. *Common:* Regular: *Passengers and their baggage, and baggage of passengers, in the same vehicle with passengers or in separate vehicles,* between points in California within 20 miles of applicant's present routes as off-route thereto, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): There are 9 supporting shippers. Their statements may be examined at the office listed below and at Headquarters. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321 (P.O. Box 1551), Los Angeles, CA 90053.

MC 69938 (Sub-2TA), filed June 28, 1979. Applicant: B.V. & G. TRANSPORT COMPANY, 1557 State St., Granite City, IL 62040. Representative: Carl Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Railway car and locomotive wheels,* from Keokuk, IA to Bensenville, IL and St. Louis, MO and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Wheel Co., 200 W. Monroe St., Chicago, IL 60606. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 73688 (Sub-97TA), filed June 22, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, P.O. box 7195, 1500 Orenda Avenue, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. *Roofing and roofing materials,* from the plantsite of Tarco, Inc. located at North Little Rock, AR to points in AL, FL, GA, IL, IN, KY, LA, MD, MO, MN, NC, OH, OK, SC, TN, TX and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tarco, Inc., P.O. Box 3330, North Little Rock, AR 72117. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Building, Suite 2006, Memphis, TN 38103.

MC 81908 (Sub-11TA), filed July 16, 1979. Applicant: GARNER TRUCKING, INC., Route #4, Findlay, OH 45840. Representative: John L. Alden, 1396 W. Fifth Avenue, Columbia, OH 43212. *Foodstuffs, and materials, equipment and supplies used in the manufacturing and packaging of foodstuffs, except commodities in bulk,* between the facilities of Heinz USA at or near Holland, MI, Fremont and Toledo, OH, and Pittsburgh, PA on the one hand, and, on the other, points in IN, KY, MI, OH, WV and points in PA on and west of U.S. Highway 219 for 180 days. Restricted to traffic originating at or destined to the named facilities. Supporting shipper(s): Heinz USA Div. of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106. Any underlying ETA seeks 90 days authority.

Note.—This application may overlap some existing one-way authority of the applicant which overlap would be feasible to extract from this request. In any event, applicant seeks no duplicating authority.

MC 82808 (Sub-20TA), filed July 6, 1979. Applicant: C. L. HUNT, d.b.a. HUNT & SONS, Box 433, Warrensburg, MO 64093. Representative: C. L. Hunt as above. *Plasticware, styrocups and food containers,* between Higginsville, MO, and points in, IN, MN, SD, CO, TX and LA, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thompson Industries Company, 313 East 15th, Higginsville, MO 64037. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 922 Walnut Street, Kansas City, MO 64106.

MC 83539 (Sub-528TA), filed June 13, 1979. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, Dallas, TX 75227. Representative: Thomas E. James, Attorney at Law (same as applicant). *Lumber, lumber products, forest products, wood products and millwork,* from all points of entry on the International Boundary Line between the United States and Canada to points in the United States, restricted to traffic originating at the facilities of P. H. Barnett Lumber Company (Alberta) Ltd. and moving in foreign commerce, for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): P. H. Barnett Lumber (Alberta) Ltd., 165 Ryan St., Winnipeg, Man. R3R ON9. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 88368 (Sub-38TA), filed July 31, 1979. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Ave., Grandview, MO 64030. Representative: C. Max Stewart (same as above). *Upholstered furniture,* from LaCrosse (Rush County) KS, to points in CO, ID, IA, MN, MT, NE, ND, OR, SD, UT, WA and WY, for 180 days. An underlying ETA seeking 90 days authority. Supporting shipper(s): LaCrosse Furniture Co., P.O. Box 99, LaCrosse, KS 67548. Send protests to: Vernon V. Coble, D/S, ICC, Room 600 Federal

Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 99848 (Sub-2TA), filed June 27, 1979. Applicant: J. F. LUX TRANS. CO., INC., 232 Ash Street, Reading, MA 01867. Representative: Joseph T. Banbrick, Jr., P.O. Box 216, Douglassville, PA 19518. *Common carrier:* irregular routes: *general commodities* (except Classes A and B explosives, commodities in bulk, those of unusual value, and household goods as defined by the Commission. Between points in MA, Hillsboro, Merrimack, Rockingham, and Stafford Counties, NH and points in RI for 180 days. An underlying ETA seeking 90 days authority. Supporting shipper(s): Maynard Plastics Co., Inc., Salem, MA 01970, N.E. Resins & Pigments Corp., Woburn, MA 01801, North Central Warehouse Inc., Reading, MA. Webster Ind. Pkg. Division of Chelsea Ind., Salem, MA 01970. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 99919 (Sub-5TA), filed July 5, 1979. Applicant: FREMONT EXPRESS, INC., 620 East Factory, Fremont, Nebraska 68025. Representative: Scott T. Robertson, 521 South 14th Street, Suite 500, Lincoln, Nebraska 68501. *Vermiculite, vermiculite products, perlite, perlite products, and insulation materials* from the facilities of W. R. Grace & Co. at or near Omaha, NE to points in IA, KS, MN, MO and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. R. Grace & Co., Construction Products Division, 62 Whittemore, Cambridge, MA 02140. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 103498 (Sub-66TA), filed June 26, 1979. Applicant: B & L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Roofing and building materials, (except commodities in bulk)* from the facilities of Bird & Son, Inc., at Shreveport, LA, to points to TX for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protests to: Martha A. Powell, Trans. Asst., ICC, Room 9A27.

MC 104149 (Sub-208TA), filed July 3, 1979. Applicant: OSBORNE TRUCK LINES, INC., P.O. Box 10727, Birmingham, AL 35203. Representative: Maurice F. Bishop, 601–09 Frank Nelson Building, Birmingham, AL 35203. *Iron or steel and iron or steel articles,* having a prior or subsequent movement by rail or water; between Alabama State Docks at or near Decatur, AL, on the one hand, and, on the other, points in AL. For 180 days. Supporting shipper(s): Fayco, Inc., Box 25, Fayette, AL 35555. Send protests to: Mabel E. Holston, T/A, Room 1616–2121 Building, ICC, Birmingham, AL 35203

MC 103798 (Sub-45TA), filed June 29, 1979. Applicant: MARTEN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Meat and packing house products from the facilities of Wilson Foods, Inc., at Albert Lea, MN to points in MT and WY, for 180 days. Supporting shipper(s): Wilson Foods, Inc., 4545 North Lincoln Boulevard, Oklahoma, City, OK 73105. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 105269 (Sub-78TA), filed June 22, 1979. Applicant: Graff Trucking Company, Inc., 2110 Lake Street, P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. *General Commodities* including plastic Automotive trim and assemblies from Evart, MI to Chicago, IL, Kenosha, WI, and Milwaukee, WI. Restricted to traffic originating at Evart Products Company at Evart, MI and destined to named points. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Evart Products Company, 601 West 7th Street, Evart, MI 49631. Send protests to: C. R. Flemming D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 106149 (Sub-3TA), filed July 9, 1979. Applicant: AMERICAN HOLIDAY VAN LINES, INC., 2323 Chipman Street, N.E., Knoxville, TN 37902. Representative: Robert H. Watson, Jr. and Stanley G. Emert, Jr., 703 Gay Street, South, Knoxville, TN 37902. *Household goods, as defined by the Commission,* between points in AL, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, WI and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Services Administration, Washington, DC 20406; Millers, Inc., 600 Henley Street, Knoxville, TN 37902. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 106398 (Sub-922TA) filed June 29, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Hardboard,* from Deposit, NY, to points and places in KY, NY, PA, VA, & WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Celotex Corporation, Division of Jim Walter Corporation, 1500 N. Dale Mabry, Tampa, FL 33607. Send protests to: Connie Stanley, ICC, rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-928TA) filed July 2, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Concrete products and materials, equipment and supplies used in the manufacture and installation of concrete products,* from the facilities of Price Brothers Company located in Dayton, OH, to points in CT, DE, IL, IN, KY, MD, MA, NJ, NY, PA, TN, VA, & WV, restricted to traffic originating at above named facility, for 180 days. Supporting shipper(s): Price Brothers Company, 367 West Second Street, Dayton, OH 45401. Send protests to: Connie Stanley, ICC, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-929TA), filed July 3, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Steel joists, steel bridging, channel iron, angles, flat bars, round rods, square bars and metal decking,* from the facilities of Vulcraft Division Nucor Corporation, Florence, SC, to points, places and construction sites in FL, GA, NC, VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, ME, TN and Washington, DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vulcraft Division Nucor Corporation, P.O. Box F2, Florence, SC 29502. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-930TA), filed July 9, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Concrete products and components,* from Binghamton, NY to PA and return, from Rochester, NY, to OH & MI and return, from Syracuse, NY, to OH, PA, and MI and return, from Albany, NY, to CT, NH, VT, and MI and return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Concrete Pipe & Products Corp., P.O. Box 1018, Binghamton, NY 13902. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-931TA), filed July 13, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull

(same address as applicant). *Lumber and lumber mill products,* from Lake City, Perry, and Longwood, FL, to all points in GA, MS, NC, SC, TN, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Wood Products, Inc., P.O. Box 1147, Longwood, FL 32750. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-932TA), filed July 16, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Plastic pipe and fittings, glue, raw material and machinery used in the production of plastic pipe and fittings,* from the facilities of Robintech, Inc., in Magnolia, AR, to all states in the United States, (except HI and AK), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robintech, Inc., P.O. Box 460, Magnolia, AR 71753. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-933TA), filed July 17, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Mixed loads of building materials, (i.e., shingles, siding, bricks, lumber, etc.),* from the facilities of Bow House, Inc., Bolton, MA, to states East of the Mississippi River and to include TX, for 180 days. Supporting shipper(s): Bow House, Inc., Randall Road, Bolton, MA 01740. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-934TA), filed July 18, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Trucks,* in secondary shipment, from the facilities of Haig Manufacturing, Inc., Elkhart County, IN, to IL, OH, MI, PA, WI, & NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Haig Manufacturing, Inc., P.O. Box 666, Elkhart, IN 46515. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-935TA), filed July 18, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Iron and steel articles,* from the facilities of Interlake, Inc., located at Newport, KY, to all points in the state of IA, restricted to traffic originating at the facilities of Interlake, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Interlake, Inc., 9th and Lowell St., Newport, KY 41072. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-936TA), filed July 19, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Brass, bronze, copper sheet, rod and wire products,* from Bridgeport and Seymore, CT, to all points in the United States, (except AK and HI), for 180 days. Supporting shipper(s): Bridgeport Brass Company, 30 Grand Street, Bridgeport, CT 06602. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-937TA), filed July 19, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Iron and steel articles,* from the facilities of U.S. Steel Corp., located at or near Cleveland, Lorain, Youngstown, OH and Braddock, Clairton, Dravosburg, Duquesne, Homestead, Irvin, Johnstown, McKeesport, McKees Rocks, Pittsburgh, & Vandergrift, PA, to the states of AR, GA, IL, IN, KY, MI, MO, NC, SC, OH (on and South of Route 70), TN, VA, & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U. S. Steel Corporation, Room 568–600 Grant Street, Pittsburgh, PA 15230. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107478 (Sub-51TA), filed May 25, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: C. T. Harris, P.O. Box 999, Wilson, NC 27893. *Copper rods* from Abingdon, VA to Eden and Tarboro, NC and to Watkinsville, GA, for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Anaconda Industries, Wire & Cable Division, P.O. Box 4485, Eden, NC 27288. Send protests to: Terrell Price, D/S, ICC, Rm CC–516, 800 Briar Creek Road, Charlotte, NC 28205.

MC 107478 (Sub-52TA), filed July 10, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: C. T. Harris, P.O. Box 999, Wilson NC 27893. *Iron and steel articles* from Atlanta and Marietta, GA to points in AL, AR, CO, DE, DC, FL, IL, IN, IA, KS, KY, LA, MD, MI, MO, MS, NE, NY, NC, OH, OK, PA, SC, TN, TX, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pacesetter Steel Service, Inc., P.O. Box 6865, Marietta, GA 30065. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 108119 (Sub-171TA), filed June 25, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Machinery, air heating and cooling equipment, bearings and components, and parts, materials, and supplies used in the manufacture or installation thereof* between Oklahoma City, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 180 days. Supporting shippers(s): LSB Industries, 518 North Indiana, Oklahoma City, OK 73108. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 108119 (Sub-178TA), filed July 24, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Iron and steel articles* from the facilities of Bull Moose Tube Company at Gerald, MO to all points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Bull Moose Tube Company, P.O. Box 214, Gerald, MO 63037. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 108589 (Sub-17TA), filed July 5, 1979. Applicant: EAGLE EXPRESS COMPANY, P.O. Box 680, Lexington, KY 20423. Representative: Michael Spurlock, L.P.A., 275 E. State Street, Columbus, OH 43215. General Commodities (with usual exceptions), between Knoxville, TN and Morristown, TN, restricted to shipments from or to the plantsite of Lear Siegler, Inc., at or near Morristown, TN, as an off-route point in connection with applicant's existing regular route authority; from Knoxville, TN, over U.S. Hwy. 11E to Morristown, TN and return over the same route. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): James Babb, Lear Siegler, Inc., 325 Industrial Rd., Morristown, TN 37814. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 108859 (Sub-70TA), filed July 11, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, 2666 Gross Avenue, Green Bay, WI 54303. Grey iron and ductile castings, agricultural implements, materials, equipment and supplies for manufacture

or distribution of above, between the facilities of Beatrice Food Co., Brillion Iron Works Division, at or near Brillion, WI, on the one hand and on the other, points in IL (on and north of U.S. Hwy 36) IN, MI (Lower Peninsula) and OH (see map attached). For 180 days. Supporting shipper(s): Beatrice Foods Co., Brillion Iron Works Division, 200 Park Avenue, Brillion, WI 54110. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 108859 (Sub-71TA), filed July 12, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *Paper and paper products, and equipment and supplies* used in the distribution or manufacture of paper and paper products, between the facilities of American Can Company, Green Bay, WI, on the one hand, and, on the other, points in IL (on and north of US Hwy 36) IN, MI and OH. For 180 days. Supporting shipper(s): American Can Company, P.O. Box 702 Neenah, WI 54956. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 108859 (Sub-72TA), filed July 16, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Ave., North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *Pulpboard, scrap paper, paper and paper products, and materials, equipment & supplies* used in the manufacture and distribution of pulpboard and paper and paper products. Between the facilities of Menominee Paper Co., Division of Bell fibre Products Corp., at Menominee, MI, on the one hand, and, on the other, points in IL (on and north of U.S. Hwy 36), IN, MI (lower Peninsula), OH and WI (on and east of U.S. Highway 51). For 180 days. Supporting shipper(s): Menominee Paper Co., Division of Bell Fibre Products Corp, 3102 S. Boots St., Marion, IN. 46952; Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 108859 (Sub-73TA), filed July 16, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *Lawn, Garden and snow removal equipment, and materials, equipment and supplies* used in the manufacture and distribution thereof; between the facilities of Gilson Brothers Company, at or near Plymouth, Sheboygan Count, WI, on the one hand, and, on the other, points in IL (on and north of U.S. Hwy 36), IN, MI and OH; and between the warehouse facilities of Gilson Brothers, Company, at or near New Holstein and Ostburg, WI, on the one hand, and on the other, points in IL (on and north of U.S. Hwy 36, IN, MI and OH. For 180 days. Supporting shipper(s): Gilson Brothers Company, P.O. Box 152, Plymout, WI 53073. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 108859 (Sub-74TA), filed July 18, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, P.O. Box 717, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. Paper and paper products and materials, equipment and supplies used in the manufacture or distribution of paper and paper products; between Fond du Lac, Green Bay, Marinette and Oconto Falls, WI, on the one hand, and on the other, points in IL (on and north of U.S. Hwy 30), IN, MI and OH. For 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 109448 (Sub-26TA), filed June 29, 1979. Applicant: PARKER TRANSFER COMPANY, P.O. Box 256, Elyria, OH 44035. Representative: Robert W. Gardier, Jr., 100 East Broad St., Columbus, OH 43215. *Central heating and air conditioning units and component parts,* from Nashville, TN, to points in the States of KY, IL, IN, OH, MI, WV, PA, NY, VA and MD for 180 days. Supporting shipper(s): Heil-Quaker Corp., 1714 Heil-Quaker Blvd., La Vergne, TN 37086. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 109449 (Sub-41TA), filed June 28, 1979. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th Street, Winona, MN 55987. Representative: Gary Huntbatch (same address as applicant). *Foodstuffs* from the plantsites and facilities utilized by Land O'Lakes, Inc. in Hudson, IA and points in MN and WI to points in IN, MI and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Land O'Lakes, Inc., 614 McKinley Place, Northeast, Minneapolis, MN 55413. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 109449 (Sub-42TA), filed June 28, 1979. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th Street, Winona, MN 55987. Representative: Gary Huntbatch (same address as applicant). (1) *Seat cabs, canopy type,* from Rochester, MN to points in IL, IA and Coldwater, OH; and (2) *Aluminum, iron and steel articles* from Chicago and its commercial zone to Rochester, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. F. Business Incorporated, Crenlow Division, 1600 4th Avenue, Northwest Rochester, MN 55901. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 109689 (Sub-354TA), filed May 22, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg. Suite 400, Salt Lake City, UT 84101. *Fish meal, bagged or bulk,* from OR and WA to CO, ID, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilbur Ellis Co., 220 West 21st Street, Ogden, UT. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 109689 (Sub-355TA), filed June 25, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg. Suite 400, Salt Lake City, UT 84101. *Fish oils and solubles,* in bulk, from Seattle, WA to Colorado Springs, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilbur-Ellis Company, 200 West 21st Street—P.O. Box 332, Ogden, UT. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 109689 (Sub-356TA), filed June 25, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101. *Sand, in bulk,* from Longview, WA, to Little Mountain, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Zirconium, Inc., P.O. Box 3208, Ogden, UT 84409. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 109818 (Sub-60TA), filed July 18, 1979. Applicant: WENGER TRUCK LINE, INC., 3909 West Rusholme, P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from Schulyer, NE to points in IA, IL, IN, KY, MI, WI, and FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Spencer Foods, Inc., P.O. Box 544, Schulyer, NE 68661.

Send protests to: Herbert W. Allen D/S, ICC, 518 Federal Bldg., Des Moines, IA 50309.

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MC 110988 (Sub-393TA), filed July 3, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Spent liquid aluminum sulphate and spent phosphoric acid* from Lawrenceburg, Memphis and Union City, TN; Cleveland, MS; Blytheville, AR; and Grand Rapids and Muskegon, MI to facilities of Hydrite Chemical Corp. and Wayne Chemical Corp. at Milwaukee, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hydrite Chemical Corp., Wayne Chemical Corp., 1273 W. Bruce St., Milwaukee, WI 53204. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 110988 (Sub-395TA), filed May 30, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Liquid chemicals*, in bulk, from facilities of Nalco Chemical Co. at or near Garyville, LA to points in AR, CA, GA, IL, IN, MI, NY, OH, TN and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nalco Chemical Co., 2901 Butterfield Rd., Oak Brook, IL 60521. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111548 (Sub-20TA), filed June 26, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28537. Representative: Edward G. Villalon, 1032 Penn. Bldg., Penn. Ave. & 13th St., NW., Washington, DC 20004. *Foodstuffs (except in bulk and frozen)* from the facilities of A. E. Staley Mfg. Co. in Chicago, IL commercial zone to points in NC and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. E. Staley Consumer Products Division, 2222 Kensington Ct., Oak Brook, IL 60521. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 111729 (Sub-759TA), filed July 16, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same address as applicant). *Business papers, records, and audit and accounting media of all kinds*, between Blytheville, AR, on the one hand, and, on the other, Butler, Caruthersville, Chaffee, Charleston, Doniphan, Hayti, Ironton, Jackson, Kennett, Kirksville, Malden, New Madrid, Piedmont, Portageville, Potosi, Sikeston and Steele, MO, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arkansas-Missouri Power Company, 405 West Park St., Blytheville, AR 72315. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 111729 (Sub-760TA), filed July 17, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same address as applicant). *Ophthalmic goods, lenses, frames, cases, instruments, replacement parts, replacement tools, prescriptions and documents*, from Nashville, TN, to Florence, AL; for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cumberland Optical Co., Inc., 806 Olympic Street, Nashville, TN 37203. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 112049 (Sub-21TA), filed July 5, 1979. Applicant: McBride's Express, Inc., East Route 316, Mattoon, IL 61938. Representative: Guy H. Boles, 433 Thatcher Avenue, St. Louis, MO 63147. *General commodities*, with usual exceptions, between Clinton and Lincoln, IL, on the one hand, and on the other, St. Louis, MO, serving all intermediate points over the routes specified: (1) From St. Louis, MO over Interstate Hwy 55 to the junction of IL Hwy 54 at or near Springfield, IL, then over IL Hwy 54 to Clinton, IL and return over same route, serving intermediate points of Bissell, Barclay, Buffalo Hart, Cornland, Chestnut, Lake Fork and Mt. Pulaski, (2) From St. Louis, MO over Interstate Hwy 55 to Lincoln, IL and return over same route, serving intermediate points of Middletown, Broadwell, Elkhart, Fancy Prairie, Williamsville, Sherman, and Spaulding; (3) From St. Louis, MO over Interstate Hwy 55 to junction of IL Hwy 16, then over IL Hwy 16 to the junction of US Hwy 51, then over US Hwy 51 to Clinton, IL and return over the same route, serving the intermediate points of Ospur, Maroa, and Emery; (4) From St. Louis, MO over Interstate Highway 55 of the junction of IL Hwy 48, then over IL Hwy 48 to the junction of IL Hwy 121 at/near Decatur, IL, then over IL Hwy 121 to Lincoln, IL, and return over same route, serving intermediate points of Warrensburg, Latham and Mt. Pulaski, and points in their respective commercial zones for 180 days. Supporting shipper(s): 50 supporting shippers. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 112588 (Sub-33TA), filed June 22, 1979. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Rd., Sandusky, OH 44870. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Steel pipe*, from McKeesport, PA and Lorain and Youngstown, OH, and pts. in their respective commercial zones, to Indianapolis, IN and pts. in its commercial zone, and pts. in Boone County, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reel Pipe & Valve Co., 914 North Senate Ave., P.O. Box 517, Indianapolis, IN 46206. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112989 (Sub-106TA), filed July 18, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405, 503–747–1283. Building materials from the facilities of J & P Petroleum Products, Inc. located at Dallas, Texas to points in California, for 180 days. Supporting shipper(s): J & P Petroleum Products, Inc., 2715 S. Westmoreland Road, Dallas, Texas. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 112989 (Sub-107TA), filed July 20, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. *Lumber, lumber mill products, millwork and wood products* from points in Oregon, Washington, Idaho, and California to points in Nebraska, Iowa, Kansas, Missouri, Illinois, Indiana, Ohio, Pennsylvania, Kentucky, Michigan, Minnesota, Wisconsin, Texas, and Oklahoma. Restricted to traffic moving for the account of Slaughter Brothers, Inc. for 180 days. Supporting shipper(s): Slaughter Brothers Inc., Raymond L. Sanford, General Traffic Manager, 11050 Piano Road, Dallas, Texas. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill, Portland, Oregon 97204.

MC 113388 (Sub-126TA), filed July 3, 1979. Applicant: LESTER C. NEWTON TRUCKING CO., P.O. Box 618, Seaford, DE 19973. Representative: Charles Ephraim, 1250 Connecticut Ave., NW., Suite 600, Washington, DC 20036.

Foodstuffs from Philadelphia, PA, Boston, MA and New York, NY and points within their commercial zones to points in CT, DE, DC, FL, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI and VA, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Frank Addeo, Traffic Manager, The Tupman Thurlow Co., Inc., 420 Lexington Ave., New York, NY 10017. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 113678 (Sub-827TA), filed July 10, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO. Representative: Roger L. Shaner (same address as above). *Lighting fixtures and/or parts thereof,* from facilities of Lithonia Lighting, Div. of National Service Industries, Inc. near Cochran & Conyers, GA to all points in ID, OR, WA, NV, UT, WY, CA, CO, MT, AZ, and NM, for 180 days. An identical ETA seeks 90 days authority. Supporting shipper(s): Lithonia Lighting, Div. of National Service Industries, Inc., P.O. Box H, 1400 Lester Road, Conyers, GA 30207. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-828TA), filed July 10, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Foodstuffs* (except commodities in bulk), from Phoenix, AZ and points in its commercial zone to all points in CA, for 180 days. An underlying 90 day ETA seeks identical authority. Supporting shipper(s): 8 Supporting shippers listed. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-829TA), filed July 13, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce, CO 80022. Representative: Roger M. Shaner (same address as above). *Frozen culture concentrates, except in bulk,* from Des Moines, IA to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Micro Life Technics, Inc., 3309–104th Street, Urbandale, IA 50332. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113828 (Sub-270TA), filed June 27, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, D.C. 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. *Urea,* in bulk, in tank vehicles, from Wilmington, NC to points in NC, having a prior movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. R. Grace & Co., P.O.B. 368, Wilmington, NC 28402. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 113828 (Sub-271TA), filed May 21, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, D.C. 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. *Natural latex* from Savannah, GA to Haynesville, LA for 180 days. Supporting shipper(s): Firestone Natural Rubber & Latex Co., P.O. Box 1223, Savannah, GA 31402. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 113908 (Sub-473TA), filed July 9, 1979. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 10068, G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as above). *Fruit juice, and concentrated thereof, in bulk,* from Geneva, OH to Anaheim, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Coca-Cola Company, Foods Division, P.O. Box 2079, Houston, TX 77001. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 113908 (Sub-474TA), filed July 26, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead, as above. *(1) Alcoholic liquors, in bulk,* from ports of entry on the International Boundary line between the U.S. and Mexico located in TX, NM and AR, to points in the U.S.; and *(2) Alcoholic liquors and alcohol and wines, in bulk,* from points in IN, KY, TN and PA, to points in CA; and *(3) Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine, wine products, brandies, fruit juice and concentrates thereof, in bulk,* from points in CA, to points in IL, IN, KY, MI, MO, NJ, NY, PA and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 15 supporting shippers' statements may be viewed in Washington, DC and Kansas City, MO offices. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-475TA), filed July 27, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead, as above. *Vegetable oils and lard, in bulk,* from Marks, MS; Chattanooga, TN; Stuttgart, AR; Macon, GA; Champaign, IL; and Memphis, TN and their respective commercial zones, to North Birmingham, AL, and its respective commercial zone, for 180 days. Supporting shipper: Sunnyland Refining Company, a Subsidiary of Kane-Miller Corp., 3330 Tenth Ave., North Birmingham, AL 35234. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-476TA), filed July 27, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead, as above. *Corn syrups and blends thereof, in bulk,* from Keokuk, IA, and the commercial zone thereof, to points in the U.S. (except AK and HI), for 180 days. Supporting shipper: H. J. Heinz Company, 601 Main St., Keokuk, IA 52631. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-477TA), filed August 1, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead, as above. *Alcohol, neutral spirits, distilled spirits, in bond; denatured and industrial alcohol, in bulk,* from Jacksonville, FL and Williamsburg, VA, to points in the U.S., in and east of ND, SD, NE, KS, OK, TX and CA, CO, WA, for 180 days. Supporting shipper: Chemical Interchange Co., 11 South Meramec Ave., Suite 1104, St. Louis, MO 63105. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 114408 (Sub-10TA), filed March 26, 1979. Applicant: TRI-AREA TRUCKING CO., 320 West Edgerton St., Bryan, OH 43506. Representative: Robert W. Gardier, Jr., 100 E. Broad St., Columbus, OH 43215. *Contract carrier;* irregular routes; *scrap metals,* between Bryan, Cleveland, and Defiance, OH, on the one hand, and, on the other, points in IL, IN, MI, OH, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Isaac Corporation, 715 East Perry St., Bryan, OH 43506. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 114569 (Sub-331TA), filed July 2, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kensington, PA 17072. Representative: N. L. Cummins, same as applicant. *Plastic sheets on tubes* from Stratford, CT and points in NY to Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Americo, Inc., P.O. Box 13344, Memphis, TN 38113. Send

protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114569 (Sub-332TA), filed July 2, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kensington, PA 17072. Representative: N. L. Cummins, same as applicant. *Bone meal in sacks,* from Reading, PA to Muskogee, OK and Pittsburg, KS, for 180 days. Supporting shipper: The Pillsbury Company, Agri Products Div., 608 Second Avenue South, Minneapolis, MN 55402. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114569 (Sub-333TA), filed July 2, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kensington, PA 17072. Representative: N. L. Cummins, same as applicant. *Fresh meat* from Emporia, KS and Dakota City, NE to Erie and King of Prussia, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: North American Provision Co., 400 W. Higgins Road, Suite 202, Park Ridge, IL 60068. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 115268 (Sub-13TA), filed July 2, 1979. Applicant: DAYTON TRANSPORT CORPORATION, P.O. Box 338, Dayton, Virginia 22821. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. *Cement, in bags and in bulk,* from the facilities of Lone Star Cement Inc., located in Botetourt County, Va. to points in NC and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lone Star Cement, Inc., Norfolk, Virginia. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, Va. 23240.

MC 115669 (Sub-191TA), filed June 19, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar St., P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes, same address as applicant. (1) *Salt and salt products, and (2) materials and supplies used in agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed loads with commodities named in (1) above,* between the facilities of American Salt Company, at or near Lyons, KS, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, ID, IL, IN, IA, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WI, and WY, for 180 days. Supporting shipper: American Salt Company, 3142 Broadway, Kansas City, Mo 64111. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 116319 (Sub-12TA), filed May 31, 1979. Applicant: WASHINGTON TRUCKING, INC., P.O. Box 107, Darrington, WA 98241. Representative: George R. Labissoniere, 1100 Norton Bldg., Seattle, WA 98104. *Pozzolan (fly ash) in bulk,* from Centralia, WA to the U.S./Canada International Port of Entry at or near Lynden, Blaine, Sumas or Oroville, WA, restricted to foreign commerce only, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Pozzolanic Northwest, Inc., 2448 76th S.E., Mercer Island, WA 98040. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 116519 (Sub-65TA), filed July 5, 1979. Applicant: FREDERICK TRANSPORT LIMITED, R.R. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, 733 Investment Building, 1511 K Street N.W, Washington, D.C. 20005. *Snowmobiles,* from ports of entry on the United States-Canada international boundary line located in MI and NY to Toledo, OH. Restrictions: (1) The authority granted herein is restricted to traffic moving in foreign commerce. (2) The authority granted herein is restricted to traffic originating at the facilities of Bombardier, LTD., at or near Valcourt Quebec, Canada. For 180 days. Supporting shipper: Bombardier Corp. Box 6106 Duluth, MN 55806. Send protests to: C. R. Flemmings, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 116519 (Sub-66TA), filed June 20, 1979. Applicant: FREDERICK TRANSPORT LIMITED, RR #6 Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, 1511 K Street, NW. Suite 733, Investment Building, Washington, D.C. 20005. *Cement pipe,* containing asbestos, from ports of entry on the international boundary line between the United States and Canada located in MI and NY to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI and DC. Restriction: The service authorized herein is restricted to traffic moving in foreign commerce originating at the facilities of Johns Manville Canada, Inc. at Toronto, Ontario, Canada. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Johns Manville Canada, Inc., 295 The West Mall, Etobiocoke, Ontario, Canada M9C 4Z7. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 116859 (Sub-22TA), filed July 10, 1979. Applicant: CLARK TRANSFER, INC., P.O. Box 190, Burlington, NJ 08016. Representative: David A. Sutherlund, Esq., Fulbright & Jaworski, 1150 Connecticut Avenue, NW, Suite 400, Washington, D.C. 20036. *Printed matter,* from Tallahassee, FL to Bridgeport, CT, and Hartford, CT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Globe Communications Corp., P.O. Box 51, Rouses Point, NY 12979. Send protests to: Irwin Rosen, Transportation Specialist, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 116949 (Sub-17TA), filed June 28, 1979. Applicant: BURNS TRUCKING, INC., Rural Route 1, Box 304, South Sioux City, Nebraska 69886. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, Iowa 51104. Contract carrier: irregular routes. (1) *Iron and Steel Articles* from the commercial zones of Chicago, IL; Cleveland, OH; and Detroit, MI. (2) *Axles* from Montgomery, AL and Kenton, OH. (3) *Flooring* from Ridgefield, WA to the facilities of CMI Load King, at Elk Point, SD for 180 days. Restricted to a service performed under a continuing contract(s) with CMI Load King, Elk Point, SD. An underlying ETA seeks 90 days authority. Supporting shipper: Paul E. Mazik, Jr., Materials Manager, CMI Load King, Elk Point, SD 57025. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 117068 (Sub-117TA), filed July 20, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., North Highway 63, P.O. Box 6418, Rochester, MN 55901. Representative: Allen I. Koenig, same address as applicant. *Compressors and compressor parts* from Wilson, NC to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Joy Manufacturing Company, Oliver Bldg., Pittsburgh, PA 15222. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 117068 (Sub-118TA), filed July 24, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., North Highway 63, P.O. Box 6418, Rochester, MN 55901. Representative: Allen I. Koenig (same address as applicant). *(1) Self-propelled compaction equipment, maintenance equipment and sweepers* between New Ulm, MN and points in the U.S. (except AK and HI) including ports of entry on the U.S.-Ontario border; and *(2) Parts, attachments and accessories used in the manufacture of (1) above* between New Ulm and Minneapolis, MN and ports of entry on the U.S.-Ontario border, for 180

days. An underlying ETA seeks 90 days authority. Supporting shipper: Ray Go Inc., 9401 85th Avenue North, Minneapolis, MN 55445. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 117119 (Sub-752TA), filed June 19, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). Underlying ETA seeks corresponding authority for 90 days. *Mattress and mattress supplies* from Portland, OR to the facilities of Sleep-N-Aire Mattress Co. at Boise, ID for 180 days. Supporting shipper: Sleep-N-Aire Mattress Co., P.O. Box 7063, Boise, ID 83707. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-753TA), filed June 19, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Imported frozen boneless beef* (except commodities in bulk) from the facilities of New Orleans Cold Storage & Warehouse Co., Ltd., at New Orleans, LA to points in CO and OH for 180 days. Supporting shipper: New Orleans Cold Storage & Warehouse Co., Ltd., Nashville Avenue Wharf, New Orleans, LA 70115. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-754TA), filed July 3, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Fungicides* (except in bulk) (1) from Charlotte and Gastonia, NC to Phoenix, AZ; Caldwell and Twin Falls, ID; Cisco, IL; Carmel, Logansport, and Westfield, IN; Wichita, KS; Minneapolis, MN; Great Falls and Sidney, MT; Minot, ND; Fostoria and S. Charleston, OH; Pendleton, OR; Palouse, WA and (2) from Marsing, ID to Des Moines, IA and Lubbock, TX, for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper: Gustafson, Inc., 6350 LBJ Freeway, Suite 180, Dallas, TX 75240. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-756TA), filed July 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Fresh meat* in boxes, in vehicles equipped with mechanical refrigeration, from the facilities of Peppertree Beef Co. at Denver, CO to points in CT, MA, MD, NJ, NY, PA, RI and VA for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper: Peppertree Beef Company, P.O. Box 16331, Stockyards Station, Denver, CO 80216. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-757TA), filed July 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Heating and air conditioning units and related parts and accessories* (except commodities which because of size or weight require the use of special equipment) from the facilities of Rheem Manufacturing Co. at or near Milledgeville, GA to points in AZ, CA, CO, ID, NV, OR, UT and WA for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper: Rheem Manufacturing Co., Air Conditioning Division, 5600 Old Greenwood Road, Fort Smith, AR 72903. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-758TA), filed July 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Dennis D. Shaw, same as applicant. *Heating and air conditioning units and related parts and accessories* (except commodities which because of size or weight require the use of special equipment) from the facilities of Rheem Manufacturing Co. at or near Fort Smith, AR to points in GA, IL, IN, IA, MD, MI MN, NE, NJ, NY, NC, OH, PA, SC, VA, WI and DC for 180 days. Supporting shipper: Rheem Manufacturing Co., 5600 Old Greenwood Road, Ft. Smith, AR 72906. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-759TA), filed July 9, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Frozen foods* (1) from Noblesville, IN to Carthage, MO and (2) from Carthage, MO to points in AZ, CA, NV, and NM, restricted to traffic originating at the facilities of Fred's Frozen Foods, Inc. for 180 days. Supporting shipper: Fred's Frozen Foods, Inc., Subsidiary of Central Soya Co., Inc., 1300 Fort Wayne National Bank Building, Fort Wayne, IN 46802. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-760TA), filed July 9, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Lighting fixtures* and/or *parts* thereof from the facilities of Lithonia Lighting, Div. of National Service Industries, Inc. at or near Cochran and Conyers, GA to points in ID, OR, WA, NV, UT, WY, CA, CO and MT for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Lithonia Lighting, Div. of National Service Industries, Inc., P.O. Box H, Conyers, GA 30207. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-761TA), filed July 11, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Chilled fruit juice*, in cartons from Anaheim, CA to Seattle, Kent, Bellevue, Tacoma, and Auburn, WA and Portland, Clackamas, Medford, Salem, and Milwaukie, OR for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): The Coca-Cola Co., Foods Division, P.O. Box 3368, Anaheim, CA 92803. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-762TA), filed July 13, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. Alcoholic beverages and distilled spirits (except in bulk) from points in IL, IN, KY, MI, and OH to the facilities of Idaho State Liquor Dispensary at Boise, ID for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Idaho State Liquor Dispensary, P.O. Box 59, Boise, ID 83701. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-763TA), filed July 23, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Such merchandise* as is dealt in by retail discount department or variety stores (except commodities in bulk), from points in AL, AZ, CA, CT, DE, DC, FL, GA, LA, MD, MA, MS, NM, NH, NJ, NY, NC, PA, RI, SC, TX, VA and WV to points in AL, AR (except Bentonville and Searcy), IL, KS, KY, LA, MS, MO, OK, TN, and TX, restricted to traffic destined to the facilities of Wal-Mart Stores, Inc. in the named

destination states, for 180 days. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117568 (Sub-20TA), filed July 18, 1979. Applicant: WADE TRUCK LINES, INC., P.O. Box 156, Verona, MO 65769. Representative: Charles J. Fain, 333 Madison, Jefferson City, MO 65101. *Sand, gravel, rock, and asphalt in bulk in dump truck vehicles,* McDonald, Barry, Stone and Taney Counties, MO; and Benton, Washington, Madison, Marion, Baxter, Carroll, and Boone Counties, AR. For 180 days. Supporting shipper: Hamilton-Patten Construction Co., P.O. Box 310, Mount Vernon, MO 65712. Send protests to: John V. Barry, ICC, Room 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 118089 (Sub-36TA), filed July 13, 1979. Applicant: ROBERT HEATH TRUCKING, INC., 2909 Avenue C, P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. (1) *Animal feed, feed ingredients, additives and supplements (except communities in bulk),* and (2) *materials and supplies used in the manufacture sale and distribution of the commodities named in (1) above,* from the facilities of Kal Kan Foods, at or near Los Angeles, Vernon, Cerritos, Irvine, and Terminal Island, CA, to points in OR, WA, TX, AZ, and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th St., Vernon, CA 90058. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 118159 (Sub-340TA), filed June 15, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Frozen boneless beef,* in boxes, from Miami and Tampa, FL, to Erie, Philadelphia, and Pittsburgh, PA, Cleveland, OH, Canajoharie, NY, Fremont, MI, St. Louis, Kansas City, and Springfield, MO, Kansas City, KS, Bowling Green, KY, Johnson City, TN, Bristol and Abingdon, VA, Forestville, MD, and Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Gurrentz International, 2020 Ardmore Boulevard, Pittsburgh, PA 15221. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 11859 (Sub-341TA), filed June 18, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Such commodities as are dealt in by home improvement stores,* between the facilities of Kinkead Industries Incorporated, at or near Pittsburg, KS, on the one hand, and, on the other, points in the United States (except Ak and HI), for 180 days. Supporting shipper: Kinkead Industries, Incorporated, 2801 Finley Road, Downers Grove, IL 60515. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118159 (Sub-342TA), filed June 27, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Corrugated boxes,* from Fort Worth, TX, to Broken Arrow, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Green Bay Packaging Corportation, P.O. Box 1107, Green Bay, WI 54305. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, Ok 73102.

MC 118159 (Sub-344TA), filed July 16, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Bakery racks,* from Broken Arrow, OK, to Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Sooner Fabricating & Sales Company, 509–E North Redbud, Broken Arrow, OK 74102. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 11159 (Sub-345TA), filed July 16, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from Tampa, FL, to points in AR, CT, IA, IL, LA, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, TN, TX, VA, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: M and N Meat Company, 201 Penn Center Blvd., Pittsburgh, PA 15235. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118159 (Sub-346TA), filed July 23, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort lauderdale, FL 33308. *Paper products,* from Holyoke, MA, to Charlotte, NC and Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Pad & Paper Company, 75 Appleton St., Holyoke, MA 01040. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118159 (Sub-347TA), filed July 23, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Such commodities as are dealt in or used by manufacturers and distributors of lawn and garden supplies,* from the facilities of Stim-U-Plant at Norcross, GA, and Dallas, TX, to points in TX, OK, AR, LA, MO, KS, NM, & CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Stim-U-Plant, 2986 Pacific Drive, Norcross, GA 30071. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118159 (Sub-348TA), filed July 27, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Neal A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Adhesives, adhesive cement, fabricated and shaped metal articles, building materials, and polyurethane and plastic articles* (except in bulk), between the facilities of Kinkead Industries, Inc., at or near Pittsburg, KS, on the one hand, and, on the other, points in LA, NC, OK, & SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kinkead Industries, Inc., 2801 Finley Road, Downers Grove, IL 60515. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118178 (Sub-27TA), filed July 27, 1979. Applicant: BILL MEEKER, 1632 No. Mosley, Wichita, KS 67214. Representative: Bill Meeker (same as above). *Malt beverages and empty containers* between Milwaukee, WI and Wichita, KS, for 180 days, common, irregular; 90-day ETA filed simultaneously; permanent anticipated. Supporting shipper: S & M Sales, Inc., 3434 West Harry, Wichita, KS 67213.

Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 118838 (Sub-59TA), filed June 4, 1979. Applicant: GABOR TRUCKING, INC., Rural Route #4, Box 124B, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Iron and steel articles,* from the facilities of United States Steel Corporation at or near Cleveland, Lorain and McDonald, OH, to WI and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United States Steel Corporation, 600 Grant Street, Room 568, Pittsburgh, PA 15320. Send protests to: Harold E. Farsdale, DS, ICC, Room 268 Fed. Bldg., 657 2nd Avenue North, Fargo, ND 58102.

MC 118838 (Sub-60TA), filed July 20, 1979. Applicant: GABOR TRUCKING, INC., Rural Route 4, Box 124B, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Iron and steel articles,* from Warren, OH to points in ND, NE and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Republic Steel Corporation, P.O. Box 6778, Cleveland, OH 44101. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 118959 (Sub-234TA), filed July 6, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Paper* and *paper products* from Chicago, IL and points in its commercial zone, to points in the states of MO, MN, KS, IA, and IN, for 180 days. Supporting shipper: Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 118959 (Sub-235TA), filed July 6, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Paper* and *paper products* between Marinette, Oconto Falls, Fond du Lac, and Green Bay, WI, on the one hand, and, on the other, points in the states of IL, MN, MO, MI, IN, IA, OH, and KS, for 180 days. Supporting shipper: Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 118989 (Sub-223TA), filed July 3, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Rolland K. Draves (same address as applicant). *Plastic containers* from Elyria, OH to Elizabethton, TN and from Ft. Recovery, OH to Detroit, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: M. Jacob & Sons, 10101 Lyndon Ave., Detroit, MI 48238. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 118989 (Sub-224TA), filed July 3, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Rolland K. Draves (same address as applicant). *Plastic articles,* NOI other than expanded, from American Can Co., Shelbyville, TN to Chicago, IL and its commercial zone, Cincinnati, OH, Iowa City, IA and Saginaw, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Can Co., 915 Harger Rd., Oak Brook, IL 60521. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 118989 (Sub-225TA), filed July 3, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Rolland K. Draves (same address as applicant). *Containers and container ends, accessories and materials and supplies used in connection with the manufacture and distribution of containers* (except commodities in bulk) from Pevely, MO to points in U.S. in the east of ND, SD, KS, NE, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Can Co., 915 Harger Rd., Oak Brook, IL 60521. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm., 619, Milwaukee, WI 53202.

MC 119349 (Sub-22TA), filed July 12, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. *Foodstuffs* from Long Island City, NY to points in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ronzoni Macaroni, 50–02 Northern Blvd., Long Island City, NY 11101. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 119349 (Sub-23TA), filed July 12, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Michael D. Bromley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. *Motor oil,* in containers, from Kenner, LA to Miami, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Flamingo Oil Company, 205 N.E. 179th St., Miami, FL 33162. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 119399 (Sub-103TA), filed July 6, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., Joplin, MO 64801. Representative: Don D. Lacy (same as above). *Malt Beverages in containers,* from Evansville, IN, to points in AR, OK, and Joplin, Lamar, Rolla, Springfield, West Plains in MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: G. Heileman Brewery, 925 South 3rd Street, LaCrosse, WI 54601. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 119599 (Sub-7TA), filed July 9, 1979. Applicant: HARSHMAN-INDUSTRIAL CARTAGE CO., INC., 1617 Warren Ave., Niles, OH 44446. Representative: Robert W. Gardier, Jr., 100 East Broad St., Columbus, OH 43215. *Building materials, gypsum and gypsum products,* from the facilities of United States Gypsum Company loacted in Martin County, IN, on the one hand, and, on the other, points in the states of IL, MI, OH, PA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United States Gypsum Company, 101 South Wacker Dr., Chicago, IL 60606. Send protests to: D/S, ICC, 101 N. 7th Street, Philadelphia, PA 19106.

MC 119789 (Sub-617TA), filed July 5, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Meat, meat products, and meat by-products* from the facilities of Iowa Beef Processors, Inc., at or near Emporia, KS to points in the states of AZ, CA, and NV, for 180 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119789 (Sub-618TA), filed July 5, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Hand Cleaner, in containers, in mechanically refrigerated equipment,* from Dallas, TX to points in the US (except AK and HI) for 180 days. Underlying ETA for 90 days filed. Supporting shipper: Texas Novachem Corporation, 11055 Dennis Road, Dallas, TX 75029. Send protests to: Opal M. Jones, Trans. Asst.,

Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 119789 (Sub-619TA), filed July 6, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Foodstuffs* from Winchester, VA to points in CA, for 180 days. Supporting shipper: Rich Products Corporation, P.O. Box 245, Buffalo, NY 14240. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119988 (Sub-205TA), filed July 17, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1394, Lufkin, TX 75901. Representative: CLAYTE BINION, 1108 Continental Life Bldg., Ft. Worth, TX 76102. *Lumber, lumber mill products, forest products, wood products, and sawmill products* from points in AZ, CO and NM to points in AR, IL, IN, IA, KS, LA, MI, MN, MO, NE, NV, ND, OK, SD, TX, UT, WI, and WY, for 180 days. Supporting shipper(s): Southwestern Sales, Inc., P.O. Box 25783, Albuquerque, NM 87125. Sagebrush Sales Co., P.O. Box 25606, Albuquerque, NM 87125. Kaibab Industries, Inc., P.O. Box 20506, Phoenix, AZ 85036. Navajo Forest Prod. Ind., P.O. Box 1280, Navajo, NM 87328. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 119988 (Sub-206TA), filed January 17, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Petroleum, petroleum products,* vehicle body sealer and/or sound deadener compounds (except in bulk, in tank vehicles), and filters from points in Warren County, MS, to points in AR, CA, LA, TX and WI. Restricted to shipments originating at the facilities of Quaker State Oil Refining Corporation located in Warren County, MS for 180 days. Supporting shipper: Quaker State Oil refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: John F. Mensing, 515 Rusk Ave. #8610, Houston, TX 77002.

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MC 135989 (Sub-9TA), filed August 3, 1979. Applicant: COAST EXPRESS, INC., P.O. Box 1215, Wittier, CA 90609. Representative: William J. Lippman, 50 South Steele Street, Suite 330, Denver, CO 80209. *Contract:* Irregular: *(1) Cosmetics and toilet preparations, and (2) Materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above,* between New York, NY; Milville, NJ; Baltimore, MD; Marion, IN; and Flat River, MO, on the one hand, and, on the other, Clearfield, UT and Los Angeles, CA, for 180 days. Restricted to the transportation of traffic originating at and destined to the facilities of Max Factor & Co. at the named points pursuant to a continuing contract with Max Factor & Co. Supporting shipper(s): Max Factor & Co., 1655 North McFadden Place, Hollywood, CA 90028. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 136899 (Sub-43TA), filed July 13, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Sugar,* in bags, from Chaska, Crookston, East Grand Forks, Minneapolis, Moorhead, and St. Paul, MN and Drayton, ND to points in IA, KS, MO & NE, for 180 days. an underlying ETA seeks 90 days authority. Supporting shipper(s): American Crystal Sugar Co., 101 N. 3rd St., Moorhead, MN 56560. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Room. 619, Milwaukee, WI 53202.

MC 136899 (Sub-44TA), filed July 30, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers, converters, and printers of paper, paper products, and plastic articles* (except commodities in bulk, in tank vehicles) from facilities of Brown Co. at or near Kalamazoo, MI and Eau Claire and Ladysmith, WI to points in IA, KS, MN, MO & NE, for 180 days. Supporting shipper(s): Brown Co., 243 E. Patterson St. Kalamazoo, MI 49007. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Room. 619, Milwaukee, EI 53202.

MC 138299 (Sub-14TA), filed June 8, 1979. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: W. J. Monheim, P.O. Box 1756, Whittier, CA 90609. Contract carrier; irregular routes; *Fibreboard building board* from St. Helens, OR to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43659. Sent protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 138299 (Sub-15TA), filed May 23, 1979. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 90609. Representative: W. J. Monheim, P.O. Box 1756, Whittier, CA 90609. Contract carrier; Irregular routes: *Fiberglass bathtubs and shower stalls; cultured marble lavatories, bathtubs, and wall surrounds; and chinaware toilets and lavatories,* from Orange County, CA to points in the United States on and West of U.S Hwy 85 (except AK, HI, CA, Denver, CO, and Albuquerque, NM), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kimstock, Inc., 2200 So. Yale St., Santa Ana, CA 92704. Send protests to: N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 138308 (Sub-84TA), filed July 5, 1979. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. (1) *Meats, meat products, meat by-products and articles distributed by 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) and (2) *foodstuffs* when moving in mixed loads with articles listed in (1) above, (a) from the facilities of Oscar Mayer & Co., Inc. at Goodlettsville, TN to points in FL; and, (b) from the facilities of Oscar Mayer & Co., Inc. at Beardstown, IL, to Goodlettsville, TN; Montgomery, AL and Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: Alan Tarrant, D/S, ICC, Room 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 138328 (Sub-96TA), filed July 12, 1979. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, I–80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Representative: J. F. Crosby (same address as applicant). *Cookies* from the facilities of Grandma's Foods, Inc. at Beaverton, OR to Santa Cruz, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grandma's Foods, Inc., 6220 S.W. 112th Avenue, Beaverton, OR 97005. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 138328 (Sub-97TA), filed July 13, 1979. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, P.O. Box 37308, I–80 and Highway 50, Omaha, NE 68137. Representative: J. F. Crosby (same address as applicant). *Charcoal,*

charcoal briquettes, fireplace logs, charcoal lighter fluid and hickory chips from the facilities of The Kingsford Company at Burnside, KY to points in IL, IN, IA, MI, MN, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Company, P.O. Box 1033, Louisville, KY 40201. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 138388 (Sub-7TA), filed July 24, 1979. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53557. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. *Animal feeds and feed ingredients in bulk and in bags* between Abbottsford, WI and New Holstein, WI on the one hand, and, on the other, points in IA, IL, IN, MI, MN, OH, & PA (except no transportation to be performed on shipments originating in the State of MN to Abbottsford, WI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johnson-Hubbard Co., Inc. & Wiscon Milling Co., 1st St., Abbotsford, WI 54405 and Milk Specialties Co., Milwaukee Drive, New Holstein, WI 53061. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 138438 (Sub-62TA), filed June 29, 1979. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania, Hagerstown, MD 21740. *Brick and clay products* from points in Stark and Tuscarawas counties, OH to points in DE, NJ, and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): O. W. Ketchum, Inc., 121 N. 18th St., Phila., PA 19103. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138469 (Sub-157TA), filed June 22, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Meat, meat products, meat by-products, and articles distributed by meat packing houses, as described in Sections A and C of Appendix 1 to the report in Description in Motor Carrier Certificate, 61, MCC 209 and 766,* (except hides and commodities in bulk), from the facilities of Wilson Food Corporation at or near Albert Lea, MN, to points in MT, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Food Corporation, 4545 N. Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-158TA), filed July 3, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73147. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Corn and corn products,* (except in bulk, in tank vehicles), including, but not limited to, hominy feed, corn meal, flour, hominy flakes, corn flakes, brewers flakes, brewers grits and bakers flakes, from the facilities of Illinois Cereal Mills, Inc., at or near Paris, IL, to points in CA and CO, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Illinois Cereal Mills, Inc., 616 S. Jefferson St., Paris, IL 61944. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-159TA), filed July 5, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Meat, meat products, meat by-products, and articles distributed by meat packing houses,* as described in sections A and C of Appendix 1 to the report in descriptions of motor carrier certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation located at Albert Lea, MN and Cedar Rapids, IA, to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 N. Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-160TA), filed July 16, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 W. Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Meat, 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 hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Omaha, NE, to points in TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138609 (Sub-5TA), filed July 3, 1979. Applicant: ROBERT L. ARNOLD, d.b.a. PLANTATION TRANSPORT COMPANY, 1506 Gillionville Road, P.O. Box 1171, Albany, GA 31702. Representative: Robert L. Arnold (same as applicant). *Iron and steel,* from Sheffield, AL and Chattanooga, TN, to Richland, Sylvester, Ellaville, Moultrie, Waycross, Millen, and Eatonton, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 6 supporting shippers. Their statements may be examined at the office listed below and headquarters. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 138609 (Sub-6TA), filed July 23, 1979. Applicant: ROBERT L. ARNOLD, d.b.a. PLANTATION TRANSPORT COMPANY, P.O. Box 1171, 1506 Gillionville Street, Albany, GA 31702. Representative: C. E. Walker, P.O. Box 1085, No. 8 11th Street, Columbia, GA 31902. *Malt beverages, in barrels, kegs, bottles and/or cans, truckload, and related advertising materials, outbound, and return loads of supplies for producing, packaging and shipping* between the plant of Miller Brewing Company, located in Dougherty County, at or near Albany, GA, on the one hand, and on the other all points in AL, FL, GA, KY, LA, MS, and TN for 180 days. Supporting shipper(s): Miller Brewing Company, 3939 Highland Boulevard, Milwaukee, WI 53208. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 139858 (Sub-33TA), filed July 10, 1979. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Ave., Hamilton, OH 45015. Representative: Chandler L. Van Orman, 1729 H St., NW., Washington, D.C. 20006. Contract carrier, irregular routes: *General commodities* (except those of unusual value, commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment) from or to the facilities of American Standard Inc. and its subsidiaries in the states of AZ, AR, CA, CO, CT, GA, IL, IN, IA, KS, KY, IA, MD, MI, MO, NJ, NV, NY, NC, OH, PA, TX, and WA, under continuing contract(s) with American Standard Inc., for 180 days. Restricted to transportation services to be performed under continuing contract(s) with American Standard Inc. and its subsidiaries, New Brunswick, New

Jersey. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Standard Inc., P.O. Box 2003, New Brunswick, NJ 08903. Send protests to: D/S, ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 140349 (Sub-1TA), filed July 6, 1979. Applicant: COPE-BESTWAY EXPRESS INC., 2024 Harvey Road, Grand Island, NY 14072. Representative: D. Thomas Cope (Same address as above). Contract Carrier—Irregular Routes. *Abrasive Grains,* (1) from Niagara Falls, NY to all points in CT, IL, MA, MI, NH, NJ, OH, PA, RI, WI and (2) *Supplies, materials and equipment used in the manufacture of abrasive grains,* from all points in destination states (1) above to Niagara Falls, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) General Abrasive, Div. of Dresser Ind., 2000 College Avenue, Niagara Falls, NY 14305. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 140389 (Sub-71TA), filed July 5, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902, Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. *Automotive parts and accessories; equipment, materials and supplies used in the manufacture thereof,* between the facilities of Maremont Corp., at or near Loudon, Ripley, Pulaski and Nashville, TN; Atlanta, GA; Chicago. IL; Chickasha, OK, and Saco, ME, on the one hand, and, on the other, points in the United States (except points in AK and HI). For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Maremont Corp., 1283 Murfreesboro Road, Nashville, TN 37217. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140389 (Sub-72TA), filed July 9, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902, Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. *(1) Frozen and canned foodstuffs and (2) materials, supplies and equipment used in the manufacture and distribution of foodstuffs,* between the facilities of Douglas Foods, Inc., at or near Douglas, GA, on the one hand, and on the other, points in AL, CO, FL, ID, IN, KY, LA, MS, NC, OH, OR, SC, TN, UT, and WA, for 180 days. Supporting shipper(s) Douglas Foods, Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140549 (Sub-19TA), filed June 27, 1979. Applicant: FRITZ TRUCKING, INC., East Highway 7, Clara City, MN 56222. Representative: Samuel Rubenstein/David Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Lumber* from Osage and Hullett, WY and Willmar, MN to points in IA, MN, MT, NE, ND, and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Timber Wholesalers, Clara City, MN 56222. Send protests to: D/S, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 140608 (Sub-2TA), filed July 24, 1979. Applicant: BENTLEY W. WARREN, d.b.a. BENTLEY WARREN TRUCKING, Fernald Street, West Gloucester, MA 01930. Representative: Ignatius C. Goode, 132 Harris Road, Nashua, NH 03060. *Scrap metal, in bulk, in dump trailers,* from points in ME, MA, NY, RI, and VT to Portsmouth, NH; from points in NH to Portsmouth, NH restricted to traffic to be interchanged with water carriers when moving in interstate or foreign commerce. For 180 days. Supporting shipper(s): Tewksbury Auto Parts Inc., 860 East St., Tewksbury, MA 01876; Madbury Metals Inc., 860 East St., Tewksbury, MA 01876; Portsmouth International Corp., Knox Marsh Road, Madbury, NH. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 140829 (Sub-302TA), filed August 1, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, same address as applicant. *Commodities as dealt in by wholesale and retail grocery and chain stores, plastic articles, chemicals and compressed gas in cylinders* from the facilities of Dry Storage Corporation in Chicago, IL to points in CO, IA, KS, MA, MO, NE, NJ, NY and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dry Storage Corporation, 2005 W. 43rd Street, Chicago, IL 60609. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-303TA), filed August 8, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, same address as applicant. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certficates 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from the facilities of Supreme Beef Processors, Inc. in Dallas and Fort Worth, TX to points in CO, IL, IN, IA, MI, MO and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Supreme Beef Processors, 5219 Second Avenue, Dallas, TX. 75210. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140689 (Sub-6TA), filed July 30, 1979. Applicant: FIVE STAR TRUCKING, INC., 1638 West Pioneer Way, El Cajon, CA 92022. Representative: Mr. Jonn Gramc, Five Star Trucking, Inc., "Same Address As Applicant". *Contract:* irregular: *Electric motors, welding equipment and welding materials and supplies used in the manufacture of welding equipment,* from Cleveland, OH to points in IL, IN, MI, PA, and WI under a continuing contract or contracts with The Lincoln Electric Company of Cleveland, OH, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The Lincoln Electric Company, 22801 St. Clair Avenue, Cleveland, OH 44117. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 141859 (Sub-2TA), filed July 20, 1979. Applicant: K. B. COMPANY, INC., P.O. Box 931, Winston-Salem, NC 27102. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. *Chain saws, chain saw parts and accessories, and gasoline powered cutting, boring, and blowing tools* from the facilities of Stihl, Inc. located at Virginia Beach, VA to Chehalis, WA; Albuquerque, NM; and Chico, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stihl Northwest, PO Box 999, Chehalis WA 98532, Sandia Power Equipment, Inc., 6102 D. Kircher Blvd. NE, Albuquerque, NM; Midway Distributing Co., Inc., 2863 Midway, Chico, CA 95926. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 141889 (Sub-6TA), filed August 13, 1979. Applicant: RONALD DEBOER d.b.a. RON DEBOER TRUCKING, Route 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Michael J. Wyngaard, 150 E. Gilman Street, Madison, WI 53703. *(1) Materials, equipment and supplies used or useful in the manufacture, sale or distribution of pre-built fireplaces,* from Wisconsin Rapids and Stevens Point, WI to Perris, CA and *(2) Pre-built fireplaces and materials, equipment and supplies used or useful in the manufacture, sale or distribution of pre-built fireplaces and*

accessories and parts thereto, from Stevens Point and Wisconsin Rapids, WI to CA, OR, WA, and UT, for 180 days. Supporting shipper(s): Preway, Inc., 1430 2nd Street North, Wisconsin Rapids, WI 54494. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 142059 (Sub-92TA), filed June 21, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (address same as applicant). *Aluminum strips and plate* from N. Lima and E. Palestine, OH to Spindale, NC for 180 days. Supporting shipper(s): L. W. Nash, Co., P.O. Box 151, E. Palestine, OH 44413. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142269 (Sub-9TA), filed August 3, 1979. Applicant: EAGLE HAWK CORP., d.b.a. ALL IOWA LTL PERISHABLE SERVICE, Box 155, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center Des Moines, IA 50309. *Meat, meat products, meat byproducts, 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 hides and commodities in bulk),* from the facilities of Geo. A. Hormel & Co. at Huron and Sioux Falls, SD, to Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 142359 (Sub-8TA), filed July 13, 1979. Applicant: PORT EAST TRANSFER, INC., 1404 S. Clinton St., Baltimore, MD 21224. Representative: Ray Turchi, same as above. *General commodities,* (Except Classes A & B explosives, commodities in bulk, household goods as defined by the Commission and commodities which because of size or weight require special equipment) in intermodal containers or trailers between Baltimore, MD and points in its commercial zone, on the one hand, and, on the other, Norfolk, VA and points in its commercial zone. Restricted to traffic having an immediately prior or subsequent movement by rail or water. For 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Stuart H. Sampson, Operations Mgr., United States Lines, Inc., P.O. Box 1775, Baltimore, MD 21203. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 142429 (Sub-2TA), filed July 27, 1979. Applicant: HORACE G. STROUD, d.b.a. STROUD TRUCK SERVICE, 11030 Weaver Street, So. El Monte, CA 91733. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Contract:* irregular: *Cheese, in mechanically refrigertated equipment,* from points in MN and WI to points in CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Daisy Provisions Co., 2442 E. 27th Street, Los Angeles, CA 90058. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 142449 (Sub-5TA), filed June 12, 1979. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *General commodities,* (1) between points in IN on and north of U.S. Hwy 40, except Indianapolis, and rail ramps and facilities of shippers and freight forwarders at Elkhart, IN, restricted to shipments having a prior or subsequent movement by rail, and (2) between points in In on and north of U.S. Hwy 40, except Indianapolis, and facilities of shippers and freight forwarders in the Chicago, IL Commercial Zone, as defined by the Commission, restricted to shipments having a prior or subsequent movement by rail, for 180 days. Supporting shipper: 11 shippers. Send protest to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 142508 (Sub-106TA), filed August 10, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Frozen food* from Saugatuck and Holland, MI to points in the United States (except AK and HI) for 180 days. Supporting shipper(s): Lloyd J. Harriss Pie Co., 350 Culver St., Saugatuck, MI 49453. Send Protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142508 (Sub-107TA), filed August 10, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Canned goods and bakery goods* from the facilities of Mountain Pass Canning Company in Anthony, TX to points in the United States (except AK and HI) for 180 days. Supporting shipper(s): Mountain Pass Canning Company, Inc., P.O. Box 220, Anthony, TX 88021. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142519 (Sub-6TA), filed July 23, 1979. Applicant: DELIVERY SERVICE CORPORATION, 500 Wyoming Avenue, Suite 218, Dearborn, MI 48126. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Contract Carrier;* irregular Routes: *paper and paper products* from the facilities of International Paper Company at or near Howell, MI to points in the United States except AK, MI, and HI, and *materials, equipment and supplies* utilized in the manufacture thereof, from points in the United States except AK, MI and HI, to the facilities of International Paper Company at or near Howell. For 180 days. Supporting shipper(s): International Paper Company, 220 East 42nd Street, New York, NY 10017. Send protests to: C. R. Flemming, D/S; I.C.C., 225 Federal Building, MI 48933. An underlying ETA seeks 90 days authority.

MC 142559 (Sub-112TA), filed June 25, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. *Foodstuffs and equipment, materials, and supplies utilized by manufacturers and distributors of foodstuffs* (except commodities in bulk) between Douglas, GA, on the one hand, and, on the other points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Douglas Foods, Inc., P.O. Box 71, Johnson City, NY 13790. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm 620, Phila., PA 19106.

MC 142559 (Sub-113TA), filed July 9, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. *Paper, paper products and woodpulp* between points in the United States (except AK and HI) for 180 days. Restricted to traffic moving from or to the facilities of Scott Paper Co. Supporting shipper: Scott Paper Co., Scott Plaza I, Philadelphia, PA 19113. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142619 (Sub-3TA), filed August 6, 1979. Applicant: DASH TRANSPORTATION, INC., P.O. Box 221, Bloomingdale, IL 60108. Representative: Edward J. Kiley, Suite 501, 1730 M Street, NW., Washington, D.C. 20036. *Contract carrier;* irregular routes: *Steel tubing and aluminum tubing, and materials, supplies, and equipment used in the manufacture, sale*

or distribution of steel tubing and aluminum tubing from the plantsite and warehouse facility of Pacific Tube Company, located at/near Los Angeles, CA to the facility of Tubesales at/near Carol Stream, IL, for the account of Tubesales. An underlying ETA was submitted seeking 90 days authority. Supporting shipper: Tubesales, Carol Stream, IL. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142669 (Sub-11TA), filed July 17, 1979. Applicant: GENE WALTERS and CLARK WURTELE, d.b.a. M & M TRUCKING, 115 East Brewster Street, Harvey, ND 58341. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Bentonite,* in hopper bottom trailers, from Belle Fourche, SD to points in ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Peavey Company, 730 Second Avenue South, Minneapolis, MN 55402. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, 657 2nd Avenue North, Fargo, ND 58102.

MC 143058 (Sub-10TA), filed August 9, 1979. Applicant: TRANS WEST CARRIERS, INC., 14416 Slover Avenue, Fontana, CA 92355. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. *Contract:* Irregular: *Insulation materials,* from the facilities of Johns-Manville Sales Corporation at or near Willows and Corona, CA to all points in the States of WA, OR, ID, UT, NV, AZ, NM, MT, WY and TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Johns-Manville Sales Corporation, 2600 Campus Drive, San Mateo, CA 94403. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 143059 (Sub-102TA), filed July 12, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. *Lumber, lumber mill products, forest products, wood products, and sawmill products* from points in AZ, CO and NM, to points in AR, IL, IN, IA, KS, LA, MI, MN, MO, NE, NV, ND, OK, SD, TX, UT, WI, and WY for 180 days. Supporting shipper(s): (4) supporting shippers: Southwestern Sales, Inc., Albuquerque, NM, Sagebrush Sales Co., Albuquerque, NM; Navajo Forest Prod., Ind., Navajo, NM; Kaibab Industries, Inc., Phoenix, AZ. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 143059 (Sub-103TA), filed July 31, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: John M. Nader, Atty., 1600 Citizens Plaza, Louisville, Ky. 40202. (1) *Non-ferrous metals (except in bulk),* from the facilities of ASARCO Incorporated, and Federated Metals Corp., a subsidiary of ASARCO Inc., located at or near Amarillo, Corpus Christi, and Houston, TX; Omaha, NE; Glover, MO; Sand Spring, OK; Whiting, IN; Newark and Trenton, NJ; San Francisco, CA; Hillsboro, IL, and Columbus, OH, to: points in the US (except AK and HI). (2) *Materials, equipment, and supplies (except in bulk) used in the manufacture and distribution of non-ferrous metals,* from points in the US to the above-named facilities. Restricted to the transportation of shipments originating at or destined to the above-named facilities. For 180 days. Supporting shipper(s): S. O. Holdman, ASARCO Incorporated, 611 Olive St., Suite 1755, St. Louis, MO. 63101. Send protests to: (Ms.) Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY. 40202

MC 143218 (Sub-6TA), filed July 23, 1979. Applicant: DONALD SANTISI TRUCKING CO., 1024 N. Main St., Niles, OH 44446. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Contract; irregular: Electric transformers & transformer parts, materials, equipment and supplies used in the production, distribution, or sale of electric transformers (except commodities in bulk),* (a) from Warren, OH to the facilities of Balteau Standard, Inc., at or near White City, OR, and (b) from the facilities of Balteau Standard, Inc., at or near White City, OR to points in WA, CA, NV, ID, MT, WY, UT, AZ, CO, and NM for 180 days. an underlying ETA seeks 90 days authority. Supporting shipper(s): Balteau Standard, Inc., 8001 Table Rock Rd., White City, OR 97501. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 143289 (Sub-9TA), filed August 8, 1979. Applicant: FEDERATED TRANSPORT SYSTEMS, 800 South McGarry Street, Los Angeles, CA 90021. Representative: Lucy Kennard Bell, Daniel M. Shapiro Law Offices, 9701 Wilshire Blvd., Suite 829, Beverly Hills, CA 90212. *Contract:* Irregular: *(1) Piece goods, lace fabrics, synthetic lace, finished synthetic knit fabrics, finished synthetic piece goods, hooks and eyes on cloth tape and elastic webbing,* from Burlington, Charlotte and Greensboro, NC; Newark and Secaucus, NJ; New York, NY; Philadelphia, PA; and Providence, RI to Van Nuys, CA; and *(2) Clothing, noi,* from Sylmar, CA to Charlotte, NC; Newark and Secaucus, NJ; and New York, NY, under a continuing contract or contracts with The Olga Company located in Van Nuys, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The Olga Company, 7900 Haskell Avenue, Van Nuys, CA 91409. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 143328 (Sub-21TA), filed August 9, 1979. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherlund, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave. NW., Washington, DC 20036. *Commodities as are dealt in by wholesale or retail grocery and food business houses* from the facilities of Hershey Foods Corporation at Oakdale, CA to points in AZ and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hershey Foods Corporation, 19 East Chocolate Ave., Hershey, PA 17033. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143499 (Sub-7TA), filed July 23, 1979. Applicant: DOUBLE NICKEL TRANSPORT LTD., 50 South Main St., Pearl River, NY 10965. Representative: Roy A. Jacobs, Esq., Alfano & Alfano, Esqs., 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier,* irregular routes: *Tetrabromobisphenol (except in bulk)* from El Dorado, AR to Toms River, NJ, under a continuing contract(s) with Ciba-Geigy Corporation; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ciba-Geigy Corporation, Ardsley, NY 10502. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 143739 (Sub-26TA), filed June 28, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter, same address as applicant. *Meat, meat products, meat by-products, and articles distributed by meat packing houses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 799,* from the facilities of Sioux-Preme Packing Company located at or near Sioux Center, IA, to points in CA, OR, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sioux-Preme Packing Company, Assistant Sales and Traffic, Highway 75 South, Sioux Center, IA 51250. Send protests to: District Supervisor, ICC, 414 Federal Building

and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143739 (Sub-27TA), filed August 3, 1979. Applicant: SHURSON TRUCKING COMPANY, INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter, same as applicant. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C 209 and 766,* from Austin, MN and Ft. Dodge, IA to points in AZ, CA and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., and U.S. Court House, 110 South 4th St., Minneapolis, MN 55401.

MC 143739 (Sub-28TA), filed August 3, 1979. Applicant: SHURSON TRUCKING COMPANY, INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter (same address as applicant). *Frozen potato products,* from Grand Forks, ND to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, SD, TN and WI, for 180 days. Supporting shipper(s): International Co-op, P.O. Box 1378, Grand Forks, ND 58201. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg. & U.S. Court House, 110 So. 4th St., Minneapolis, MN 55401.

MC 143978 (Sub-5TA), filed May 24, 1979. Applicant: EMERSON DELIVERY, INC., P.O. Box 652, Cedar Rapids, IA 52406. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract authority. *Printed matter* between the facilities of Stamats Publishing Co. at Cedar Rapids, IA, on the one hand, and, on the other, points in IL, KS, MN, NE, WI and points in the Kansas City, MO commercial zones, under continuing contract(s) with Stamats Publishing Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stamats Publishing Company, 427 Sixth Ave., S.E., Cedar Rapids, IA 52406. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 144069 (Sub-12TA), filed July 26, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge (same as above). *Iron, steel, and aluminum articles* between the facilities of Consolidated Systems, Inc. and its Southeastern Coated Products Division at or near Columbia, SC, on the one hand, and on the other, the Ports at Charleston and North Charleston, SC and GA, FL, AL, TN, KY, OH, PA, WV, VA, DC, MD and NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Systems, Inc., Southeastern Coated Products Division, PO Box 1756, Columbia, SC 29202. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 144188 (Sub-10TA), filed May 17, 1979. Applicant: P. L. Lawton, P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, 410 N. Third St., P.O. Box 1146, Harrisburg, PA 17108. *Fiberboard, paper, paperboard, plastic containers, and plastic wax,* from the facilities of Bercon Packaging, Inc., at Berwick, PA to El Paso, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bercon Packaging, Inc., 1800 N. Market St., Berwick, PA 18603. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 144188 (Sub-11TA), filed July 12, 1979. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, P.O. Box 1146, 410 N. 3rd St., Harrisburg, PA 17108. *Such merchandise* as is dealt in by retail, wholesale, chain grocery and food business houses, and foodstuff ingredients (except commodities in bulk and frozen foods); and packing materials, display racks, machinery, advertising materials, displays, dispensing equipment, premiums, and office equipment and supplies, between the facilities of Old London Foods Division of Borden Foods, Borden, Inc. at New York, NY, on the one hand, and, on the other, points in the United States in and east of ND, SD, NB, KS, OK and TX, (except from New York, NY, to points in CT, DE, FL, GA, IL, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV and DC presently authorized) restricted to traffic originating at the indicated origins and destined to the indicated destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Old London Foods Division, Borden Food, Borden, Inc., 228 Raseley St., Berwick, PA 18603. Send protests to: I.C.C., Fed. Bank Bldg., 101 N. 7th St, Rm. 620, Phila, PA 19106.

MC 144189 (Sub-3TA), filed July 25, 1979. Applicant: CORPORATE TRANSPORT INC., 107 7th North Street, Liverpool, NY 13088. Representative: Alfano & Alfano, 550 Mamaroneck Avenue, Harrison NY 10528. Contract carrier—irregular routes. *Such commodities as are dealt in by a manufacturer of paper and paper products, except in bulk,* from the facilities of Mead Packaging at Chicago, IL to points in NJ, NY and PA. Restricted to a transportation service to be performed under a continuing contract(s) with Mead Packaging, for 180 days. Supporting shipper(s): Mead Packaging, P.O. Box 4417, Atlanta, GA 30302. Send protests to: Anne C. Siler, 910 Federal Bldg., 111 W. Huron Street, Buffalo, NY 14202.

MC 144209 (Sub-6TA), filed June 6, 1979. Applicant: ERWIN TRUCKING, INC., 9100 "F" Street, Omaha, Nebraska 68127. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, Nebraska 68106. *Carpets, floor coverings and rugs* from points in GA and NC and Chicago, IL to Council Bluffs, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Michael's Carpets, 3211 Nebraska Avenue, Council Bluffs, IA 51501, Mike Hughes, President. Send protests to: Carroll Russell, D/S, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 144368 (Sub-3TA), filed June 11, 1979. Applicant: Genpat, Inc., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard Kofkin, 39 South LaSalle Street, Chicago, IL 60603. *Contract Carrier:* irregular routes: *Steel sheeting and coils,* from the facilities of Armco Steel Corp. at Zanesville and Middletown, OH and the facilities of Allegheny Ludlum Steel Corp., Leechburg, PA to Chicago, IL and points in its commercial zone for the account of Tempel Steel Company for 180 days. Supporting shipper(s): Tempel Steel Company, 5990 West Touhy Avenue, Niles, IL 60648. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 144408 (Sub-3TA), filed July 9, 1979. Applicant: DICK HUIZENGA, d.b.a., DICK HUIZENGA TRUCKING, 2882 Pomona Blvd., Pomona, CA 91766. Representative: Dick Huizenga (same address as applicant). *Contract:* irregular: *Burnt sewer sludge,* from Palo Alto, CA to Hayden, AZ, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): World Resources Company, 1600 Anderson Road, McLean, VA 22101. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 144578 (Sub-4TA), filed July 9, 1979. Applicant: LIME, INC., 3969 Wyoming Avenue, Dearborn, MI 48126. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Quicklime,* in bulk, from Marble City, Oklahoma to points in Wisconsin and those in IN and IL in the Chicago, IL Commercial Zone and Marion and Butler Counties, OH. For 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper(s): St. Clair Lime Company, P.O. Box 849, Oklahoma City, OK 73101. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 144609 (Sub-9TA), filed July 24, 1979. Applicant: ADAN J. DOMINGUEZ, d.b.a., DOMINGUES BROS. PRODUCE CO., 1500 South Zarzamora Street, San Antonio, TX 78207. Representative: Kenneth R. Hoffman, Attorney, 801 Vaughn Building, Austin, TX 78701. *Batteries,* From San Antonio, TX to Anaheim, and Santa Fe Springs, CA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Standard Industries, P.O. Box 27500, San Antonio, TX 78227. Send protests to: Opal M. Jones, Trans. Consumer Specialist, Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 144779 (Sub-4TA), filed July 18, 1979. Applicant: AHA, INC., Box 513, Panguitch, UT 84759. Representative: Glen M. Hatch, 80 West Broadway, Suite #300, Salt Lake City, UT 84101. *Lumber* from Fredonia, AZ, to points in NM, TX, and CA; and from Panguitch, UT, to points in NM and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaibab Lumber Company, Fredonia, AZ 86022. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144858 (Sub-16TA), filed July 16, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representing: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Photographic equipment, materials and supplies* and *materials and supplies* used in the manufacture and sale thereof, between points in MA on the one hand, and, on the other, points in CA, FL, GA, IL, IN, KS, MI, NC, OH, TX and WI, restricted to traffic originating at or destined to the facilities used by Polaroid Corporation, for 180 days. Supporting shipper(s): Polaroid Corporation, 140 Kendrick St., Needham Heights, MA 02194. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144888 (Sub-11TA), filed July 30, 1979. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 130 Somerset Street, Somerville, NJ 08876. Representative: Joel J. Nagel, 19 Back Drive, Edison, NJ 08817. Contract; irregular. *Commodities as are dealt in or used by wholesale and retail distributors of chemicals except commodities in bulk.* To and from points and places in CT, DE, FL, GA, ME, MD, NJ, NY, PA and VA on the one hand, and, on the other, points and places in AL, VA, FL, GA, MD, MI, NC, OH, SC and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moreland McKesson Chemical Company, Drawer 2169, Spartansburg, SC 29304. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144909 (Sub-4TA), filed July 20, 1979. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine Street, Boston, MA 02119. Representative: Jeremy Kahn, Attorney at Law, Suite 733, Investment Building, Washington, DC 20005. *Printed matter and microfilm, used in and useful for the preparation of telephone directories,* between the facilities of Datacomp Corporation, at Boston, Massachusetts, on the one hand, and, on the other, the facilities of Datacomp Corporation at New Haven, Connecticut, the facilities of Southern New England Telephone and Telegraph Company at or near New Haven and Norwich, Connecticut, and the facilities of Microform Data Systems, at or near Hamden, Connecticut. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Datacomp Corporation, 35 Wm. T. Morrissey Blvd., Boston, MA 03125. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 144969 (Sub-11TA), filed July 16, 1979. Applicant: WHEATON CARTAGE CO., Wheaton Avenue, Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. (1) *Acids, chemicals, and chemical compounds,* in packages, and *materials, equipment and supplies used in the application of commodities named above* (except in bulk), From Waterloo, NY to points in the US (except AK and HI). (2) *Acids, chemicals and plastics,* synthetic, liquid, in packages; *plastic and rubber articles or materials,* expanded and other than expanded, and *materials, equipment and supplies* used in the application of commodities named above (except in bulk), from Canton, MA to points in the US (except AK and HI). (3) *Materials, equipment and supplies* (except in bulk), used in the manufacture, production and distribution of the commodities in (1) and (2) above, from points in the US (except AK and HI) to origins in (1) and (2) above, for 180 days. Supporting shipper(s): W. R. Grace & Co., 55 Hauden Avenue, Lexington, MA 02173. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144978 (Sub-6TA), Filed August 2, 1979. Applicant: MIDWESTERN PLASTICS AND CHEMICALS, INC., 1025 Avenue M, Grand Prairie, TX 75050. Representative: William P. Jackson, Jr., P.O. Box 1240, 3426 N. Washington Blvd., Arlington, VA 22210. Contract carrier, irregular routes, *Such commodities as are dealt in or used by a manufacturer or distributor of plastic articles,* except in bulk, (1) from the facilities of Roper Plastics, Inc., at or near Grand Prairie, TX to points in CA, LA, AR, OK, and the facilities of Roper Plastics, Inc., located at or near Forest Park, GA; Jerseyville, IL; and Watertown, MA; (2) from Bound Brook, NJ, and the facilities of Roper Plastics, Inc., at or near Forest Park, GA; Jerseyville, IL; Norwalk, CA; and Watertown, MA; to the facilities of Roper Plastics, Inc., at or near Grand Prairie, TX for 180 days. Supporting shipper(s): Roper Plastics, Inc., 1011 Avenue M, Grand Prairie, TX 75050. Send protests to: Opal M. Jones, TCS, Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor St., Ft. Worth, TX 76102.

MC 145108 (Sub-6TA), Filed July 30, 1979. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn NY 11220. Representative: George A. Olsen, POB 357, Gladstone, NJ 07934. *Contract carrier,* irregular routes, *drugs, medicines, toilet preparations and cosmetics (except in bulk),* from Huntsville, AL, to Houston, TX, restricted to transportation service performed under a continuing contract(s) with Chesebrough Pond's Inc.; for 180 days; an underlying ETA seeks 90 days authority. Supporting shipper(s): Chesebrough Pond's, Inc., John St., Clinton, CT 06413. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 145199 (Sub-3TA), Filed April 5, 1979. Applicant: WESTERFIELD TRUCK LEASING, INC., RR 10, Greensburg, IN 47240. Representative: Robert W. Loser, 1100 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Contract carrier: over irregular routes: (1) Merchandise as is dealt in by wholesale, retail and chain grocery and food business houses and in connection therewith (2) equipment, materials and supplies used in the conduct of such business* (except commodities in bulk) *in refrigerated vehicles,* between the facilities of the Kroger Co. at Indianapolis, IN: St. Louis, MO: Cincinnati and Columbus, OH: on the one hand, and, on the other, Little Rock, AR: Atlanta, GA: Peoria, IL: Ft. Wayne and Indianapolis, IN: Louisville,

KY: Detroit and Grand Rapids, MI: St. Louis, MO: Cincinnati, Cleveland and Columbus, OH: Pittsburg, PA: Memphis and Nashville, TN: Dallas and Houston, TX: Roanoke, VA and Charleston, WV, for 180 days. Supporting shipper: Kroger Co., 1014 Vine Street, Cincinnati, OH 45202. Send protests to: Beverly J. Williams, Transportation assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 145268 (Sub-5TA), Filed May 29, 1979. Applicant: KENNETH B. HOLM AND GLENN STEED, d.b.a. H & S Enterprises, P.O. Box 26302, Salt Lake City, UT 84125. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier:* irregular routes: floor tile and adhesives from CA to the facilities of J B Tile Co. at South Salt Lake, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J B Tile Co., P.O. Box 15217, Salt Lake City, UT 84115. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138

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MC 119632 (Sub-100TA), filed May 12, 1979. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence (same as above). *Foodstuffs, canned or preserved* (except frozen or in bulk), from Lyndonville, NY to points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lyndonville Canning Co., Inc., 151 West Ave., Lyndonville, NY. Send protests to: Carol Rosen, TA, ICC, Federal Bldg., 600 Arch Street, Rm 3238, Philadelphia, PA 19106.

MC 134592 (Sub-25TA), filed July 5, 1979. Applicant: HERB MOORE AND HAZEL MOORE, d.b.a. H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, OR 97211. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Foodstuffs vis.: Spaghetti, macaroni, or noodles and cheese, with sauce, in combined packages; Spaghetti sauce mix, dry; Sauce mix, dry; Pizza pie mix; Soup ingredients (soup mix); Popcorn, not popped; Popcorn confectionery from the facilities of American Home Foods, Division of American Home Products Corp. at Vacaville, CA, to Medford, Roseburg, Eugene, Salem, Clackamas, Milwaukee and Portland, OR, Bellevue, Bremerton, Kent, Seattle, Spokane and Yakima, WA. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Home Foods Division of American Home Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 135082 (Sub-89TA), filed July 5, 1979. Applicant: ROADRUNNER TRUCKING, INC., 4100 Edith Blvd. NE, P.O. Box 26748, Albuquerque, NM 87125. Representative: Randall R. Sain (same address as applicant). *Lumber, lumber products, and millwork,* from AZ, CO, and NM, to AL, FL, GA, IL, IN, KY, MI, MS, NC, OH, SC, IN, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ponderosa Products, P.O. Box 25506, Albuquerque, NM 87125; Navajo Forest Products, P.O. Box 1280, Albuquerque, NM 87328: Sagebrush Sales Company, 6300 State Road 47, Albuquerque, NM. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 135762 (Sub-4TA), filed July 12, 1979. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, Ft. Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. Contract carrier, irregular routes. (1) *Aluminum and wood folding furniture and aluminum institution furniture,* from the facilities of Tucker Duck and Rubber Company at Ft. Smith, AR to points in the United States, except AK and HI; and (2) *materials, supplies and equipment* (except in bulk) used in the fabrication and manufacture of the articles named in (1) above, from points in the United States, except AK and HI to the facilities of Tucker Duck and Rubber Company at Ft. Smith, AR for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Tucker Duck and Rubber Company, P.O. Box 4167, Ft. Smith, AR 72914. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 136012 (Sub-5TA), filed June 25, 1979. Applicant: UNITED STATES TRANSPORTATION, INC., 4963 Provident Drive, Cincinnati, OH 45246. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. *Liquid chemicals, in bulk, in tank vehicles,* from Cincinnati, OH, and its commercial zone, to points in IN and KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: There are three (3) shippers in support of this application of which can be examined in the Washington, D.C. Headquarters, ICC or at the field office named below. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136343 (Sub-170TA), filed June 28, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Printed matter* (except commodities in bulk) from Dresden, TN to Boston, MA; New York and Buffalo, NY; Camden, Saddle Brook, and Moonachie, NJ; Chicago, IL, Columbus, OH; Detroit, MI; McKees Rocks, PA and Washington, DC and points in their commercial zones, for 180 days. Supporting shipper: Berkley Jove Publishing Group, 200 Madison Ave., New York, NY 10016. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136553 (Sub-80TA), filed April 6, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 E. 12th St., Bubuque, IA 52001. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Fertilizer* in bulk, (1) from Depue, IL to IA, MN and WI, (2) from Ft. Madison, IA to IL and MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Suppliers, Inc., P.O. Box 538, Eldora, IA 50627; Chevron Chemical Company, Box 288, Fort Madison, IA 52627. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136782 (Sub-22TA), filed June 25, 1979. Applicant: R.A.N. TRUCKING COMPANY, P.O. Box 128, Eau Claire, PA 16030. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *General commodities (except those of unusual value, Classes A and B Explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaiminating to other lading),* between points in Butler County, and Pittsburgh, PA on the one hand, and, on the other, points in NY, NJ, CT, MA, RI, MD and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: None. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138313 (Sub-57TA), filed July 11, 1979. Applicant: BUILDERS TRANSPORT, INC., 409—14th Street SW, Great Falls, MT 59404. Representative: MISS IRENE WARR, 430 Judge Bldg., Salt Lake City, UT 84111. *Sulfur, fertilizer and soil conditioners* from the facilities of Montana Sulphur and Chemical Company at or near Billings, MT to OR, WA, ID and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montana Sulphur and Chemical Company, P.O. Box 31118,

Billings, MT 59107 North Pacific Trading Company, P.O. Box 3915, Portland, OR 97208. Send protests to: Paul J. Labane, D/S, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138762 (Sub-44TA), filed July 18, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street NW, Washington, DC 20006. *Choline chloride trimethylamines, in bulk, in tank vehicles,* from ports of entry on the U.S.-Canada International Boundary line located in MI to points in NC, SC, GA, AL, LA, MD and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Chinook Chemicals Limited, Box 160, Sombra, ON, Canada NOP 2HO. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138882 (Sub-282TA), filed July 9, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Equipment, materials, and supplies used in the manufacture, sales and distribution of plastic pipe (except commodities in bulk).* From points in the U.S. (except AK and HI) to points in Geneva County, AL. For 180 days. Supporting shipper: Samson Plastic Conduit and Pipe Corp., P.O. Box 325, Samson, AL 36477. Send protests to: Mabel E. Holston, T/A, Room 1616—2121 Building, ICC, Birmingham, AL 35203.

MC 138882 (Sub-283TA), filed July 10, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Foodstuffs, materials, equipment, and supplies used in the manufacture, sale and distribution of foodstuffs,* (except commodities) between the facilities of Douglas Foods, Inc. located at Douglas, GA, on the one hand, and on the other, points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Douglas Foods, Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 139482 (Sub-141TA), filed July 13, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Articles dealt in by retail and wholesale department merchandise houses and specialty shops,* from New York, NY, and points in its commercial zone to Dallas, TX, and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Neiman-Marcus, Director of Financial Planning and Systems Design, Dallas, TX, 75204. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 139482 (Sub-142TA), filed July 16, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. (1) *Frozen and canned foodstuffs* and (2) *materials, supplies and equipment used in the manufacture and distribution of foodstuffs* between facilities of Douglas Foods, Inc. at Douglas, GA on the one hand, and, on the other, points in the U.S. (except AK & HI) restricted to transportation of traffic originating at or destined to the facilities of Douglas Foods, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper Douglas Foods, Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: Judy Olson, TA, ICC, 414 Federal Bldg. & U.S. Courthouse, 110 S. 4th St., Minneapolis, MN 55401.

MC 141443 (Sub-28TA), filed July 20, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 Denton Street, Sapulpa, OK 74066. Representative: William Cruikshank (same address as applicant). *Canned goods and pet food,* from points in CA, to points in AR, CO, KS, LA, MO, OK (except Oklahoma City), OR, TX, & WA, for 180 days. Supporting shipper(s): Star-Kist Foods, Inc., 582 Tuna Street, Terminal Island, CA 90731. Tillie Lewis Foods, P.O. Drawer J, Stockton, CA 95201. Sun Harbor Industries, P.O. Box 2311, San Diego, CA 92112. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141252 (Sub-10TA), filed July 20, 1979. Applicant: Pan Western Corporation, 4105 Las Lomas, Las Vegas, NV 89102. Representative: Richard Truman (same as applicant). *Roofing material,* from San Diego, Orange, Los Angeles, Riverside, and San Bernardino Counties, CA, and Maricopa County, AZ to Clark County, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are six shippers which can be examined at the office listed below and Headquarters. Send protests to: DS, W. J. Huetig ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 141742 (Sub-6TA), filed July 20, 1979. Applicant: FLOWERT TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, CA 95603. Representative: Walter H. Walker III, 100 Pine St., Suite 2550, San Francisco, CA 94111. *Gypsum wallboard and materials and supplies* used in the installation of gypsum wallboard, from Sigurd, UT to points in CA and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: UWS Materials & Supply Co., Inc., 2001 Broadway, Vallejo, CA 94590. Send protests to: DS, W. J. Huetig, ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 142062 (Sub-31TA), filed April 4, 1979. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Drawer P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Contract carrier: irregular routes: Such commodities as are manufactured or distributed by a manufacturer of aluminum and aluminum products,* from the facilities of Reynolds Metals Company at or near Louisville, KY to Birmingham, AL, for 180 days. Under contract with Reynolds Metals Company at Louisville, KY. Supporting shipper: Reynolds Metals Company, P.O. Box 32920, Louisville, KY 40232. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 142663 (Sub-3TA), filed July 13, 1979. Applicant: SPRINGBROOK TRANSPORT, INC., P.O. Box 422, Springfield, PA 19064. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract; irregular: Stone and stone products, in dump trucks* from Robeson Township, Berks County, PA to Kearny, NJ, under contract with LCM Corp. of Roseland, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: L.C.M. Corp., 21 Pier Lane, Roseland, NJ 07068. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142672 (Sub-25TA), filed July 19, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Fruitcakes and candy* from Bogart, GA to points in the United States (except AK, GA and HI), for 180 days. Supporting shipper: J. T. B. Associates, P.O. Box 216, Douglasville, PA 19518. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142703 (Sub-19TA), filed August 1, 1979. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 W. Third St., P.O. Box 14072,

Cincinnati, OH 45214. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *General commodities,* except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment, between points in Louisville, Kentucky, and its commercial zone, on the one hand, and, on the other, points in KY. Restricted to transportation of shipments having a prior or subsequent rail or water movement, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dow Corning Corp., 3901 S. Saginaw Rd., Midland, MI 48640. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St, Rm 620, Phila., PA 19106.

MC 143503 (Sub-25TA), filed July 9, 1979. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: T. M. Brown, P.O., 1540, Edmond, OK 73034. *Such commodities as are dealt in by retail department stores,* from the facilities of J. C. Penney Company in Washington, DC; MD, and VA to points in DC; MD; VA, in and north of Gloucester, King and Queen, King William, North Hampton, Accomack, Hanover, Louisa, Albermarle, and Rockingham Counties; Franklin, Adams, York, and Lancaster Counties, PA; and Morgan, Berkeley, and Jefferson Counties, WV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: J. C. Penney Company, Suite 100, 4660 Kenmore Avenue, Alexandria, VA 22304. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 143713 (Sub-12TA), filed June 11, 1979. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION, RFD 8, 37 Forest Ridge, Springfield, IL 62707. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NB 68106. *Knocked-down steel buildings and parts thereof:* from Terre Haute, IN to points in IL, IA, NB, KS, MO, KY, OH, SD, ND, MN and WI for 180 days. Supporting shipper: National Steel Products Co., P.O. Box 40490, Houston, TX 77040. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 143772 (Sub-2TA), filed June 22, 1979. Applicant: H & W TRUCKING CO., INC., Box 38, Ona, WV 25545. Representative: John M. Freidman, 2930 Putnam Ave., Hurricane, WV 25526. *(1) Lumber, (2) Electrical mining equip., (3) Mine roof bolts and plates, (4) Sewage treatment plant and custom fabricated steel,* (1) above from pts. in ID, KY, MT, NM, NC, and VA to Milton WV; commodities named in (2) above between Huntington WV on the one hand, and on the other, pts. in that part of VA on and West of US Hwy 15; pts. in PA on and West of US Hwy 219; and pts. in KY; commodities named in (3) above from Bellaire, OH, to pts. in KY on and East of Interstate Highway 75; pts. in WV on and South of Interstate Highway 70; those in VA on and South of Interstate Highway 64 and on West and North of Interstate Highway 81 and then in PA on and South of Interstate Highway 70 and West of US Highway 19, and commodities named in (4) above from Hungtington, WV to pts. in OH, KY, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper:

T. E. Clagg Building Supply, 1010 S. Main St., Milton, WV 25541; Harvey Hubbell Inc., Ensign Electric Div., 914 Adams Ave., Huntington, WV; Steel Products & Mfg. Co., Virginia Ave. & 16th St. W., Huntington, WV; Phillips Stamping Co., Inc., 18th St., Bellaire, OH 43906.

Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 143903 (Sub-4TA), filed June 12, 1979. Applicant: O'NEILL BROS TRANSFER & STORAGE CO., 706 S.W. Commercial Street, Peoria, IL 61602. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier:* irregular routes: *Sporting goods, toys, athletic footwear, sports apparel and other related recreational items,* for the account of Brown's Sporting Goods for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s); Brown's Sporting Goods, 413 S.W. Adams, Peoria, IL 61602. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

144122 (Sub-56TA), filed July 27, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. (1) *Such commodities as are dealt in by retail and chain grocery, hardware, and drug stores,* in containers, and (2) *materials, supplies, and equipment* used in the manufacture, sale and distribution of the commodities named in (1) above, (except commodities in bulk) between the facilities used by American Home Products Corp., at Chamblee, GA; Bedford Park, IL; Cranford, NJ; Canton, OH and Dallas, TX, restricted to freight originating at or destined to the facilities utilized by American Home Products Corp., for 180 days. Supporting shipper(s): Boyle Midway, Division of American Home Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144303 (Sub-9TA), filed July 25, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Same as applicant. Contract carrier—irregular routes: *electrical distribution transformers and parts thereof and materials, equipment and supplies used in their manufacture* from the facilities of RTE Corporation at or near Waukesha, WI to points in the US in and east of MN, IA, MO, AR, and LA under contract with RTE Corporation, 1900 East North St., Waukesha, WI for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): RTE Corporation, 1900 East North St., Waukesha, WI 53186. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 144442 (Sub-5TA), filed July 16, 1979. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Rd., Pompano Beach, FL 33060. Representative: John P. Bond, 2766 Douglas Rd., Miami, FL 33133. *Contract carrier:* irregular routes: *General commodities* (except those of unusual value) restricted against the transportation of commodities in bulk, Class A and B explosives, household goods, livestock and commodities requiring special handling and special equipment, from points in MA to points in FL and GA restricted to the transportation of traffic originating at the facilities of New England Shipping Association Co-operative, or at the facilities of its members originating at the named origins and destined to the named destinations for 180 days. Supporting shipper(s): New England Shipping Association Cooperative, 1029 Pearl St., Brockton, MA 02401. Send protests to: Donna M. Jones, T/A, ICC-BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 144672 (Sub-15TA), filed July 9, 1979. Applicant: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer (same address as applicant). *Such commodities as are dealt in or used by manufacturers and converters of paper, paper products, pulp and plastic products (except in bulk),* from Kalamazoo, MI; Berlin and Gorham, NH to points in the United States (except AK and HI) for 180 days. Restricted to traffic originating at the facilities of Brown Company. Supporting shipper(s): Brown Company, 243 E. Paterson St., Kalamazoo, MI 49007. Send protests to:

I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 144682 (Sub-25TA), filed July 13, 1979. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Suite 1125 Exchange Park, Dallas, TX 75245. *Animal feed, feed ingredients, supplements, additives, and materials used in the manufacture and distribution of animal feed* (except commodities in bulk), from the facilities of Kal Kan Foods, Inc., at or near Vernon, Irvine, and Cerritos, CA to points in AZ, NM, OR, OH, WA, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 144682 (Sub-26TA), filed July 12, 1979. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Suite 1125 Exchange Park, Dallas, TX 75245. *Meat, meat by-products, and articles distributed by meat packinghouses* as described in Sections A & C to Appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk) frozen or unfrozen, from New York, NY; Philadelphia, PA; Charleston, SC; Miami, FL; Tampa, FL; Omaha, NE; New Orleans, LA; Houston, TX; Chicago, IL; Dubuque, Davenport, Cedar Rapids, and Sioux City, IA; Sioux Falls, SD; Worthington, MN; Green Bay, WI; Kansas City and Wichita, KS; Oklahoma City, OK; Boise, ID; Denver, Greeley, Colorado Springs, and Pueblo, CO; Amarillo, TX; Springfield, MO; Seattle, Tacoma, and Walla Walla, WA; Eureka, Sacramento, San Francisco, Stockton, and Los Angeles, CA; to all points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Local & Western Shippers of Texas, Inc., Suite 2131, Republic Nat'l Bank Tower, Dallas, TX 75201. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145052 (Sub-1TA), filed May 7, 1979. Applicant: HAROLD E. FELGAR, 1315 East 7th Street, Rm. 312, Los Angeles, CA 90012. Representative: Timothy P. Johnson, 18952 MacArthur Blvd., Suite 300, Irvine, CA 92715. *Contract:* Irregular: *Canned foods; packaged foods; vitamins; health foods; food supplements; yogurt; and cheese* from St. Augustine, Florida, Los Angeles, California, and San Francisco, California, for 180 days. Supporting shipper(s): Irwin Carasso, 315 Industrial Drive, St. Augustine, FL 32084. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 145152 (Sub-99TA), filed June 29, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Kent L. Tharel, P.O. Box 334, Fayetteville, AR 72701. *Paint, aluminum paste and asphalt,* in containers; *paint equipment and accessories; clay* in bags or containers (except commodities in bulk) from the facilities of or used by American Paint Company, Inc. at or near Southaven, MS to points in IL, IN, IA, MN, NE, KS, KY, MO, NY, PA, SC and NJ; and from Sylacauga, AL; Cartersville and McIntyre, GA; and Melrose Park, IL to the facilities of or used by American Paint Company, Inc. at or near Southaven, MS for 180 days. Underlying ETA South corresponding authority for 90 days. Supporting shipper(s): American Paint Company, Inc., P.O. Box 434, Southaven, MS 38671. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145252 (Sub-7TA), filed July 11, 1979. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, Virginia 22485. Representative: Chester A. Zyblut, 1030 15th Street, N.W., Suite 366, Washington, D.C. 20005. *Fresh and Frozen Meat and packing house products* from the facilities of John Morrell & Co., near Sioux City, IA; Sioux Falls, SD; and Esterville, IA to points in AL, CT, DE, FL, GA, IN, KY, MD, MA, MI, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., Chicago, Illinois. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 145782 (Sub-3TA), filed July 2, 1979. Applicant: MERCHANTS HOME DELIVERY SERVICE OF TEXAS, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *New furniture, furnishings, and accessories,* from the facilities of Freed Furniture Company at Dallas, TX to points in OK, AR, and LA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Freed Furniture Company, 4355 LBJ Freeway, Dallas, TX. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 146643 (Sub-4TA), filed July 2, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, 3202 South State Street, South Chicago Heights, IL 60411. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract carrier:* irregular routes: *Plastic articles and materials* (except commodities in bulk) and equipment and supplies used in the manufacture and distribution of plastic articles, from Frankfort, IL to IN, KS, OH, MI, MN, MO, ND, NE, and SD for 180 days for the account of Mobil Chemical Co. Supporting shipper(s): Mobil Chemical Co., Macedon, NY 14502. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146643 (Sub-5TA), filed July 10, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, INC., 3202 South State Street, South Chicago Heights, IL 60411. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract Carrier:* Irregular routes: *Plastic and plastic articles* (except in bulk) from South Chicago Heights, IL to points in the lower peninsula of MI and KS and MO for 180 days, for the account of Portion Packaging Inc. Supporting shipper(s): Portion Packaging, Inc., 3345 Butler Avenue, South Chicago Heights, IL 60411. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146643 (Sub-6TA), filed July 10, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, INC., 3202 South State Street, South Chicago Heights, IL 60411. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract Carrier:* Irregular routes: *Plastic articles and materials (except commodities in bulk) and equipment and supplies used in the manufacture and distribution of plastic articles* from Frankfort, IL to IN, KS, OH, MI, MN, MO, ND, NE, and SD, for 180 days. Supporting shipper(s): Mobil Chemical Co., Plastics Div., Macedon, NY 14502. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146643 (Sub-7TA), filed July 13, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, 3202 South State Street, South Chicago Heights, IL 60411. Representative: Marc J. Blumenthal, 39 South LaSalle Street, Chicago, IL 60603. *Contract Carrier:* Irregular routes: *Iron and steel articles,* from the facilities of Ball Metal and Decorating Service, Division of Ball Corporation at Chicago, IL to Plymouth, IN, Sturgis, MI and Piqua, OH for 180 days. Supporting shipper(s): Ball Corporation, 345 South High Street, Muncie, IN 47302. Send protests to:

Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146643 (Sub-8TA), filed July 9, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, INC., 3202 South State Street, South Chicago Heights, IL 60411. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract carrier:* Irregular routes: (1) *Electric storage batteries* from Chicago Heights, IL to points in PA, MD, OH, MI, KY, IN, IL, MN, IA, MO, TN, MS, LA, FL, GA, TX, AL, VA, DC, WI, and NY and (2) *rubber or plastic battery containers and covers,* from Milwaukee, WI; Owensboro, KY; and Indianapolis, IN to Chicago Heights, IL and (3) *Scrap batteries,* from points in PA, MD, OH, MI, KY, IN, IL, MN, IA, MO, TN, MS, LA, FL, GA, TX, AL, VA, DC, WI, and NY to Leeds, AL and Chicago Heights, IL, for 180 days. Supporting shipper(s): Pace Battery Co., 12th St. and McKinley St., Chicago Heights, IL 60411. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 147663 (Sub-1TA), filed July 11, 1979. Applicant: WITTE BEVERAGE CO., 1180 Creek Drive, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Bentonite (clay)* from Belle Fourche, SD and Upton, WY and points in their commercial zones to Forreston, IL and Burlington and Little Chute, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vet-Way Feeds, Box 654, Forreston, IL 61030; Midland Cooperatives, Inc., P.O. Box 228, Bohm Drive, Little Chute, WI 54140; Burlington Consumers Co-op, 100 North Dodge Street, Burlington, WI 53105. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 147673 (Sub-2TA), filed June 28, 1979. Applicant: ALBERT F. McCLAIN, d.b.a. McCLAIN TRUCKING COMPANY, 305 North 12th Street, Mayfield, KY 42066. Representative: Louis J. Amato, P.O. Box 3, Bowling Green, KY 42101. Contract carrier; irregular routes; *clay,* in bags and in bulk, from points in Graves County, KY, Panola County, MS, and Henry and Weakly Counties, TN, to points in KY, TN, OH, PA, MS, AL, LA, MO, IL, IN, WV, NY, NJ, CT, MA, MD, MI, WS, CA, CO, and FL, under a continuing contract with Kentucky-Tennessee Clay Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kentucky-Tennessee Clay Company, P.O. Box 449, Mayfield, KY 42066. Send protests to: Floyd A. Johnson, DS, ICC, 100 North Main Bldg-Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 147933 TA, filed July 10, 1979. Applicant: JOHN H. BRYANT d.b.a. J. B. TRANSPORTATION, 211 Lea Court, San Pablo, CA 94806. Representative: Richard E. Macey, 1122 North El Dorado Street, Stockton, CA 95202. *Contract carrier,* irregular routes: (1) *Lubricating oil* in bulk in insulated tank trailers, between Rodeo, CA and Portland, OR; between Rodeo, CA and Salt Lake City, UT; between Richmond, CA and Portland, OR; between Richmond, CA and Salt Lake City, UT; and between Los Angeles, CA and Salt Lake City, UT; (2) *Paraffin waxes* in bulk in insulated tank trailers, between Rodeo, CA and Portland, OR, and between Rodeo, CA and Tacoma, WA, for 180 days. Supporting shipper(s): Union Oil Company of California, 461 S. Boylston St., Los Angeles, CA 90017. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 148083 (Sub-1TA), filed August 2, 1979. Applicant: ROBERT W. SELLARS d.b.a. SELLARS TRANSPORT SERVICE, 1620 Parnell Drive, Eugene, OR 97404. Representative: Robert W. Sellars, 1620 Parnell Drive, Eugene, OR 97404, 503–689–2835. 1. Lumber and sub components for mobile homes and buildings from Washington, Oregon, and Idaho to California, Nevada, and Arizona; 2. Ground minerals in sacks, chemicals in barrels and sacks from Los Angeles, Barstow, Bishop, Dunn, Lompoc, Lucerne Valley, Victorville, and Bay Area, California; Basalt, Cypress Mines, and Colada, Nevada to Washington, Oregon, and Idaho for 180 days. Supporting shipper(s): Continental Minerals Corporation, 1700 East Desert Inn Road, Suite 205, Winchester Plaza, Las Vegas, Nevada 89109 (702–737–0588), Lynn Forest Products, P.O. Box 717, Corona, CA 91720. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–27988 Filed 9–6–79; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Applications; Notice

Correction

In FR Doc. 79–25920, published at page 49324, on Wednesday, August 22, 1979, on page 49348, in the third column preceding the third paragraph "MC 2229 . . .", insert the following two lines:

NOTICE NO. 146

August 13, 1979.

BILLING CODE 1505–01–M

[Volume No. 26]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications

Correction

In FR Doc. 79–24379, published at page 46555, on Wednesday, August 8, 1979, on page 46570, in the second column, the last paragraph of the column beginning "Authority . . ." should be corrected to read "MC–FC–78184, Authority. . .".

BILLING CODE 1505–01–M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 175
Friday, September 7, 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

[M-240, Amdt. 4; Aug. 31, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the August 31, 1979, meeting agenda.

TIME AND DATE: 9 a.m., August 31, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 1a. Docket 31290, Establishment of Interim Standard Industry Fare Level (Memo 9096).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 1a was added to the August 31, 1979, agenda because it must be acted on expeditiously if it is to serve its intended purpose to permit unanticipated increases in fuel costs to be recovered by carriers during the month of September. Since it is based in part on data which became available only within the last several days, it was not possible to get it to the Board seven days prior to the meeting. Therefore, agency business requires the addition of Item 1a to the agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Gloria Schaffer

[S-1739 Filed 9-5-79; 3:09 pm]

BILLING CODE 6320-01-M

2

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, September 10, 1979; 10:30 a.m. to 12:30 p.m.; 2:00 to 5:00 p.m.

PLACE: Sheraton Houston, Houston, Texas.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (10:30 a.m. to 12:30 p.m.)

I. Approval of agenda.
II. Approval of minutes of last meeting.
III. Staff Director's Report:
A. Status of funds.
B. Personnel report.
C. Office Directors' reports.
D.. Correspondence:
1. Response from SBA on set aside provision, Pub. L. 95-507.
2. Response from Assistant Attorney General Drew Days on Ku Klux Klan activity.
3. Response from Department of Justice re Kentucky State Police.
E. Approval of Commission Calendar for FY 1980.
F. Review of memorandum re Request for Clarification of Commission Jurisdiction over the Administration of Justice.
IV. Report on Civil Rights Developments in the Southern Region.
V. State Advisory Committee Re-charter:
A. New Jersey.
VI. Action re Nebraska Advisory Committee Report on Affirmative Action in Omaha.
VII. Action re Midwest Advisory Committee Report on Redlining in the Insurance Industry.
VIII. Action re Connecticut Advisory Committee Report on Battered Women in Hartford.
IX. Review of SAC Chairperson's Conference Agenda.
X. Action re HEW Title IX Policy Interpretation on Athletics.

MATTERS TO BE CONSIDERED: (2:00 p.m. to 5:00 p.m.)

XI. Review of Annual Report Outline.
XII. Proposal for Ethnic Consultation.
XIII. Memorandum on Title VII and the Handicapped.
XIV. Review of National Immigration Report.

PERSON TO CONTACT FOR FURTHER INFORMATION: Loretta Ward, Press and Communications Division, (202) 254-6697.

[S-1732-79 Filed 9-5-79; 11:21 am]

BILLING CODE 6335-01-M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 11, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Determination by the Commission of the FY 80 First Quarter Budget Programs and Priorities.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1733-79 Filed 9-5-79; 11:21 am]

BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., September 14, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1734-79 Filed 9-5-79; 11:21 am]

BILLING CODE 6351-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

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 its open meeting held at 2:00 p.m. on Tuesday, September 4, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), and concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition of the following matters to the agenda for consideration at the meeting, on less than seven days' notice to the public:

Memorandum and resolution proposing adoption of amendments to Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks."

Resolution expressing the Board's regret at the death of Robert P. Rogers, Director, Division of Management Systems and Financial Statistics, and appreciation of Mr. Rogers' many years of service to the Corporation.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: September 4, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary

[S-1737-79 Filed 9-5-79; 3:09 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

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 its closed meeting held at 2:30 p.m. on Tuesday, September 4, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), and concurred in by Director William M. Isaac (Appointive), that Corporation business required the addition of the following matters to the agenda for consideration at the meeting, on less than seven days' notice to the public:

Case No. 44,022-L (Reserve for Losses and Allotments for Insurance Expenses—81 Open Liquidation Cases).

Memorandum from the Controller proposing the selection of a consulting firm to assist the Corporation in acquiring additional space in which to house its Washington, D.C. offices.

The Board further determined, by the same majority vote, that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; that the matters could be considered in a closed meeting by authority of subsections (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B) and (c)(10)), and that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: September 4, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1738-79 Filed 9-5-79; 3:09 pm]

BILLING CODE 6714-01-M

7

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 10 a.m., September 14, 1979.

PLACE: 2025 M Street NW., Washington, D.C., 4th Floor Conference Room.

STATUS: Open.

Note.—As a result of Pub. L. 95-630, which restructured the agency from management by a single administrator to management by a three-member board, the agency is now subject to the open meeting provisions of the Government in the Sunshine Act. This is the first meeting of the newly constituted National Credit Union Administration Board.

MATTERS TO BE CONSIDERED:

1. Interim Sunshine Act Policy Statement.
2. Rules of Board Procedure.
3. Delegations of Authority.
4. Consideration of any applications for charters, amendments to charters, mergers and insurance as may be pending at that time.

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady, acting Secretary of the Board, telephone (202) 254-9800.

[S-1740-79 Filed 9-5-79; 3:49 pm]

BILLING CODE 7535-01-M

8

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 51398, published August 31, 1979.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, August 29, 1979.

CHANGES IN THE MEETING: Additional items.

The following additional item will be considered at a closed meeting scheduled for Wednesday, September 5, 1979, following the 2:30 p.m. open meeting: Settlement of injunctive actions.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling or meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 272-2091.

September 4, 1979.

[S-1735-79 Filed 9-5-79; 11:21 am]

BILLING CODE: 8010-01-M

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 10, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, September 12, 1979, at 10:00 a.m., immediately followed by a closed meeting. A closed meeting will be held on Thursday, September 13, 1979, at 9:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c), (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the open meeting scheduled for Wednesday, September 12, 1979, will be:

1. Consideration of an application by William H. Gregory, III to lift the bar imposed by Commission Order of July 15, 1971, suspending him from association with any broker-dealer in a supervisory or managerial capacity. For further information, please contact Michael F. Perlis at (202) 272-2933.

2. Consideration of whether to affirm action taken by the duty officer, authorizing the Office of the General Counsel to file a brief, *amicus curiae*, before the Merit Systems Protection Board in the matter of *Wells* v. *Califano*, supporting the position of the Office of Personnel Management ("OPM") that the Civil Service Reform Act of 1978 contemplates that an agency can remove employees for unacceptable performance on the basis of interim procedures pending the establishment of a final performance appraisal system by the agency, and that the interim regulations of OPM setting forth procedures to that effect are valid and should be sustained. For further information, please contact Carol K. Scott at (202) 272-2474 or Don Langevoort at (202) 272-2438.

3. Consideration of whether to send a letter to the Office of Management and Budget commenting on legislation proposed by the General Service Administration which would subject the tapes, transcripts or minutes of agency meetings, which agencies must maintain of their closed meetings under the Government in the Sunshine Act, to the records retention law. For further information, please contact John Sweeney at (202) 272-2454.

4. Consideration of an application by The Youngstown Research and Development Company, pursuant to Section 12(h) of the Securities Exchange Act of 1934, for an exemption from the registration requirements

of Section 12(g) of that Act. For further information, please contact Michael J. Connell at (202) 272-2579.

5. Consideration of whether to grant the application of Lester Osterman, Lester Osterman Productions, Inc. and Richard Horner for relief pursuant to Rule 252(f) of Regulation A. For further information, please contact Thomas J. Baudhuin at (202) 272-2644.

6. Consideration of whether to issue a release adopting Rule 17j-1 under the Investment Company Act of 1940 which would prohibit fraud or manipulation by persons affiliated with investment companies or their investment advisers or principal underwriters in connection with such persons' trading in securities held or to be acquired by the investment company, and would specifically require the adoption of codes of ethics by investment companies and their advisers and underwriters. For further information, please contact Robert B. Shapiro at (202) 272-2057.

The subject matter of the closed meeting scheduled for Wednesday, September 12, 1979, immediately following the 10:00 a.m. open, will be:

Formal orders of investigation and access to investigative files by Federal, State, or Self-Regulatory Authorities.

Settlement of administrative proceeding of an enforcement nature.

Litigation matter.

Institution of injunctive action.

Freedom of Information Act appeal.

Chapter X proceeding.

Consideration of amicus participation.

Regulatory matter bearing enforcement implications.

Chapter XI proceeding.

Settlement of injunctive action.

The subject matter of the closed meeting scheduled for Thursday, September 13, 1979, at 9:00 a.m., will be:

Legislative and regulatory matters bearing enforcement implications.

At times changes in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Beverly Rubman at (202) 272-2092.

September 4, 1979.

[S-1736-79 Filed 9-5-79; 11:21 am]

BILLING CODE 8010-01-M

10

[Meeting No. 1226]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 2:00 p.m., Tuesday, September 11, 1979.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS FOR ACTION:

Old Business

1. Rehabilitation of Oconee No. 2 Hydro Plant.

New Business

Personnel Actions

1. Appointment of Donald W. Earl as Project Manager, Office of the General Manager, Knoxville, Tennessee.

2. Change of Status for Larry H. Edwards from Chief, Cost Planning and Control Staff, to Assistant to the Manager, Office of Engineering Design and Construction, Knoxville, Tennessee.

3. Change of Status for Billy J. Bond for Assistant General Manager to Acting Manager of Community Development, Knoxville, Tennessee.

Consulting and Personal Services Contracts

1. Renewal of consulting contract with Jones and Stokes Associates, Inc., Sacramento, California, for advice and assistance in connection with environmental assessment and monitoring programs, requested by the Office of Natural Resources.

2. Personal services contract with Robert R. Nathan Associates, Inc., Washington, D.C., for advice and assistance in connection with administrative proceedings before the Interstate Commerce Commission, requested by the Office of the General Counsel.

Purchase Awards

1. Rejection of bids received in response to Invitation No. 824989 for reactor safety relief valve discharge line quenchers for Hartsville and Phipps Bend Nuclear Plants.

2. Req. No. 825333—Scrubber fans and bypass fans for Johnsonville magnesium oxide flue gas desulfurization system, Johnsonville Steam Plant.

3. Req. 50—Coal for Widows Creek Steam Plant.

4. Conversion of long-term fixed commitment enrichment contracts with U.S. Department of Energy to adjustable fixed-commitment contracts.

Project Authorization

1. No. 3467—Installation of automatic condenser tube cleaning system on Cumberland Steam Plant Units 1 and 2.

Power Items

1. Letter agreement with Tennessee Valley Public Power Association for expansion of their electric power distribution research, development, and demonstration efforts.

2. Funding authority under Contract TV-37304A with American Nuclear Corporation for equipment and mine development for the proposed Peach Mining Project in Wyoming.

Real Property Transaction

1. Agreement with Stewart County, Tennessee, relating to conveyance of county-owned roads within Land Between The Lakes.

Unclassified

1. Rule and regulation reaffirming sale and distribution of power within the boundary prescribed by Section 15d(a) of the TVA Act.

2. Approval of the Third National Bank, Nashville, Tennessee, and the First American National Bank, Nashville, Tennessee, as additional trustees to manage portions of TVA Retirement System Fund assets; consideration of amendments to the System's Rules and Regulations to permit trustees to be residents of any state (Rule now requires trustees to be residents of either New York or Illinois); and acceptance of TVA contribution rate to the Retirement System for fiscal year 1980.

3. Supplement to contract with Environmental Research and Technology, Inc., concerning sulfur oxide pollution study.

4. Settlement of litigation brought by Ambrose Branch Coal Company, Inc., against TVA as the result of a dispute concerning deliveries under coal contract.

Dated: September 4, 1979.

CONTACT PERSON FOR MORE INFORMATION: Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

[S-1731-79 Filed 9-5-79; 8:59 am]

BILLING CODE 8120-01-M

Reader Aids

Federal Register

Vol. 44, No. 175

Friday, September 7, 1979

INFORMATION AND ASSISTANCE

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

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202-275-3054	Subscription problems (GPO)
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202-523-3187	Scheduling of documents for publication
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275-3030	Slip Law Orders (GPO)

Other Publications and Services:

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523-4534	Special Projects
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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
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DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	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

FEDERAL COMMUNICATIONS COMMISSION

45951 8–6–79 / Personal attacks and applicability of the Fairness Doctrine to Section 315 "Uses"

45625 8–3–79 / Greenville, N.C.; changes in FM table of assignments

45626 8–3–79 / Palmyra, Mo.; changes in FM table of assignments

45395 8–2–79 / FM broadcast station in AVA, Ill.; table of assignments

FEDERAL HOME LOAN BANK BOARD

46444 8–8–79 / Loans on individual cooperative units

FEDERAL RESERVE SYSTEM

46438 8–8–79 / Truth in lending; official staff interpretations

SECURITIES AND EXCHANGE COMMISSION

46736 8–8–79 / Going private transactions by public companies or their affiliates

46447 8–8–79 / Suspension of duty to file reports upon termination of registration

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 17, 1979

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Sept. 21; Oct. 5 and 19; Nov. 2 and 16; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

LONG ISLAND, NEW YORK

WHEN: Oct. 10 at 2 p.m.

WHERE: Roosevelt Theatre, State University of New York at Farmingdale

SPONSOR: Long Island Library Resources Council, Inc.

RESERVATIONS AND PARKING: Call 516–286–0400.

PRINCIPLES OF REGULATIONS WRITING SEMINAR

WHAT: The aim of the seminar is to improve the quality of Federal regulations by teaching how to design and draft clear regulations.
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1. Drafting conventions, preferred usage, the rule of consistency.
2. How to arrange and organize your regulations.
3. What you can do to make regulations easier to read and easier to use.

WHO: Any Federal employee who drafts documents or who reviews documents for substance that are published in the **Federal Register.**

WHEN: October 3, 1979
November 7, 1979
December 5, 1979
January 16, 1980
February 13, 1980

WHERE: Office of the Federal Register, 1100 L Street, N.W., Washington, D.C., Room 9407.

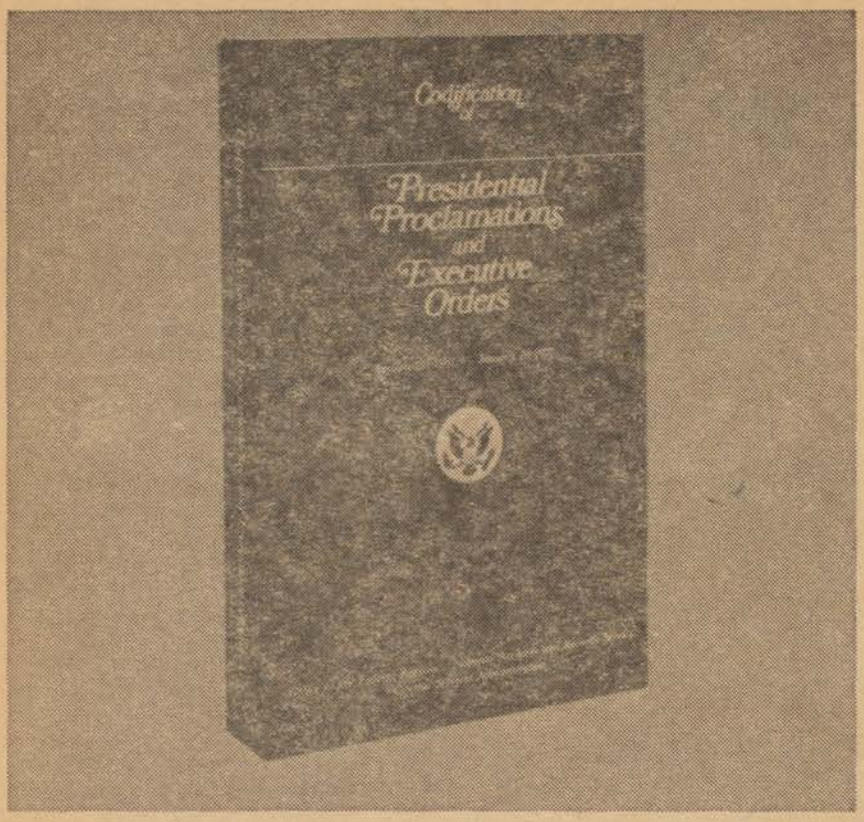
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HOW: Each person registers by sending a training authorization form 170 or the training authorization form your office uses to: Special Projects Unit, Office of the Federal Register, NARS, Washington, D.C. 20408.

After receipt of an applicant's training authorization form, Special Projects will mail the applicant a confirmation letter that serves as an admission ticket to the seminar. Tuition will not be charged for an applicant who cancels a confirmed reservation five (5) work days before the day of the seminar. Substitutions are permitted if the applicant's training officer approves.

FOR MORE INFORMATION: Phone Viola Wilson (202) 523–5240

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Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1961–1977 period, along with any amendments, an indication of its current status, and, where applicable, its location in this volume.

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federal register

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Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour, Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

New General Wage Determination Decisions

Mississippi.—MS79–1123.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama:	
AL79–1080	May 4, 1979
AL79–1081	July 27, 1979
Delaware:	
DE78–3080	Nov. 3, 1978
Florida:	
FL79–1068	Apr. 13, 1979
Louisiana:	
LA79–4069	July 20, 1979
Mississippi:	
MS79–1119	Aug. 17, 1979
Texas:	
TX79–4010	Jan. 5, 1979
TX79–4032; TX79–4033; TX79–4038; TX79–4048; TX79–4050	Mar. 16, 1979
TX79–4037	June 1, 1979
TX79–4045	June 22, 1979
TX79–4034	July 13, 1979
TX79–4036	Aug. 17, 1979
Virginia:	
VA78–3061	Sept. 15, 1979

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Illinois:	
IL78–2127(IL79–2069); IL78–2138(IL79–2072); IL78–2041(IL79–2070)	Oct. 27, 1978
IL78–2166(IL79–2071)	Dec. 8, 1978
Kansas:	
MO78–4048(MO79–4060)	May 5, 1978
Missouri:	
MO78–4048(MO79–4080)	May 5, 1978
MO78–4098(MO79–4081)	Oct. 6, 1978
New Mexico:	
NM79–4021(NM79–4079)	Jan. 5, 1979
New York:	
NY77–3120(NY79–3028)	Sept. 9, 1977
North Carolina:	
NC75–1078(NC79–1125)	Sept. 5, 1975
South Carolina:	
SC75–1029(SC79–1124)	Mar. 7, 1975
SC75–1045(SC79–1124)	Apr. 11, 1975
Virgin Islands:	
VI78–3010(VI79–3024); VI79–3011 (VI79–3023)	Mar. 24, 1978

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 31st day of August 1979.

Anthony J. Ponturiero,

Acting Assistant Administrator Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: Mississippi COUNTIES: *See below
DECISION NO.: MS79-1123 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Projects Consisting of single family homes and apartments up to and including 4 stories.
*Counties: Adams, Amite, Franklin, Jefferson, Lawrence, Lincoln, Pike, Walthall, and Wilkinson.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning Mechanic	5.50				
Bricklayers	6.50				
Carpenters	5.17				
Cement Masons	5.37				
Drywall Hangers	5.50				
Electricians	5.14				
Ironworkers:					
Structural & Ornamental	4.50				
Reinforcing	4.82				
Laborers:					
Laborers	3.00				
Mason Tenders	3.31				
Mortar Mixers	3.56				
Pipelayers	3.50				
Painters, brush	4.26				
Plumbers & Pipefitters	6.95				
Roofers (shingles)	4.00				
Sheet Metal Workers	4.94				
Truck Drivers	3.25				
Welders - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.00				
Bulldozers	4.30				
Roller	3.75				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #AL79-1080-Mod # 2 (44 FR-26411-May 4, 1979) Calhoun, Etowah, Green, Jefferson, Pickens, St. Clair, Shelby, Sumter, Talladega, Tuscaloosa, and Walker Counties, Alabama					
Change:					
Ironworkers	10.75	.60	.815		.06
Decision # AL79-1114-Mod.# 1 (44 FR 44407-July 27, 1979) Etowah County, Alabama					
Change:					
Carpenters:					
Carpenters	9.60	.60	.45		
Millwrights	10.10	.60	.45		

MODIFICATIONS P. 2

DECISION NO. DE78-3080 - MOD. #6 (42 FR 51567 - November 3, 1978) State of Delaware	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
LABORERS - BUILDING CONSTRUCTION:					
New Castle County:					
Group 1	8.80	.90	.80		
Group 2	9.05	.90	.80		
Group 3	9.30	.90	.80		
Group 4	10.05	.90	.80		
Group 5	9.40	.90	.80		
LABORERS - HEAVY CONSTRUCTION:					
New Castle County:					
General Laborers, Asphalt tamper, Asphalt Raker, Concrete Pitman, Landscapers, Planter, Puddler, Railroad Trackman, Rubber Magazine Tender, Seeder and Arboriate, and Signalmen	6.55	.90	.80		
Pipelayers	6.70	.90	.80		
Blasters, Caissons and Cofferdams (open air below 8 feet where excavations for circular caissons and cofferdams are 8 feet or more below level of natural grade adjacent to starting point), Diamond point drills, Form setters, Gunite nozzle operators, and wagon drills	6.85	.90	.80		

MODIFICATIONS P. 3

Decision # FL79-1068-Mod. #3 (44 FR 22309 - April 13,1979) Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Bricklayers	9.20	.50	.40		.04
Blocklayers	9.20	.50	.40		.04
Manhole bricklayers	9.20	.50	.40		.04
Plasterers	9.20	.50	.40		.04
Terrazzo workers	9.20	.50	.40		.04
Tile setters	9.20	.50	.40		.04
Cement masons	9.20	.50	.40		.04
Masonry cutting or grinding machine operator	9.45	.50	.40		.04
Carpenters:					
Carpenters	8.78	.50	.65		.07
Radial saw operators	8.78	.50	.65		.07
Soft floor layers	8.78	.50	.65		.07
Millwrights	10.82	.55	.70		.10
Painters:					
Brush	8.25	.40	.40		.06
Spray	8.75	.40	.40		.06
Paperhanging	8.75	.40	.40		.06
Sandblasting	8.75	.40	.40		.06
Sheet metal workers	11.29	.70	.48		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. LA79-4069 - MOD. #2 (44 FR 42860 - July 20, 1979) Statewide, Louisiana					
CHANGE:					
Bricklayers & stonemasons:					
Zone 7	$10.00		.30		
Cement masons (Building Construction):					
Zone 9	8.75		.30		
Electricians:					
Zone 1:					
Electricians	13.76	5%	8%		3/10%
Cable splicers	14.01	5%	8%		3/10%
Zone 6:					
Electricians	12.25	.85	3%		½%
Cable splicers	12.75	.85	3%		½%
Zone 8:					
Electricians	13.21		3%		½%
Cable splicers	13.46		3%		½%
Line Construction:					
Zone 2:					
Linemen, line equipment & truck ops.	13.76	5%	8%		3/10%
Cable splicers	14.01	5%	8%		3/10%
Zone 5:					
Linemen & equip. ops.	13.21		3%		½%
Cable splicers	13.46		3%		½%
Groundman	60%JR		3%		½%
Plasterers:					
Zone 5	9.78	.60	.35		.08
Zone 9	10.00		.30		
Plumbers & pipefitters:					
Zone 2	11.95	.78	.875		.07
OMIT:					
Line Construction:					
Zone 6					
Linemen & equip. oprs.	$11.55	.75	3%		½%
Cable splicers	12.05	.75	3%		½%
Groundman (1st 6 mos.)	3.00	.75	3%		½%
Groundman (2nd 6 mos.)	3.70	.75	3%		½%
Groundman (after 1 yr.)	3.93	.75	3%		½%
ADD:					
Line Construction:					
Zone 6:					
Linemen & equip. ops.	12.25	.85	3%		½%
Cable splicers	12.75	.85	3%		½%
Groundman	4.17	.85	3%		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # MS79-1119-Mod # 1 (44 FR 48567-August 17,1979) Hancock, Harrison, Jackson, and Pearl River Counties, Mississippi					
Change:					
Terrazzo Workers	9.85	.40			.01
DECISION NO. TX79-4010 - MOD. #7 (44 FR 1681 - January 5, 1979) Wichita County, Texas					
CHANGE:					
Plumbers & pipefitters:					
Zone 1	$11.05	.45	.75		.05
Zone 2	11.55	.45	.75		.05
DECISION NO. TX79-4032 - MOD. #2 (44 FR 16325 - March 16, 1979) Harrison County, Texas					
CHANGE:					
Electricians:					
Electricians	10.60	.60	3%		¼%
Cable splicers	10.95	.60	3%		¼%
DECISION NO. TX79-4033 - MOD. #5 (44 FR 16326 - March 16 1979) Jefferson & Orange Cos., Texas					
CHANGE:					
Plumbers	13.32	.34			.03

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4034 - MOD. #2 (44 FR 41061 - July 13, 1979) Bowie County, Texas					
CHANGE:					
Plumbers & pipefitters	$12.72	.60	.70		.05
DECISION NO. TX79-4036 - MOD. #1 (44 FR - August 17, 1979) Galveston & Harris Cos., Texas					
CHANGE:					
Plasterers	12.40	.87	.40		.02
Roofers:					
Composition	10.48	.42	.45	.35	.06
Slate & tile	11.23	.42	.45	.35	.06
Kettlemen	9.74	.42	.45	.35	.06
DECISION NO. TX79-4037 - MOD. #2 (44 FR 31856 - June 1, 1979) Lubbock County, Texas					
CHANGE:					
Bricklayers & stonemasons	10.52		.30		.03

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4038 - MOD. #6 (44 FR 16328 - March 16, 1979) Travis County, Texas					
CHANGE:					
Electricians & cable splicers	$11.80	.60	8%		.8%
Marble, tile & terrazzo workers	9.15	.60			.05
Painters:					
Group 1	9.65				
Group 2	9.99				
Group 3	10.15				
DECISION NO. TX79-4045 - MOD. #2 (44 FR 36694 - June 22, 1979) El Paso County, Texas					
CHANGE:					
Electricians:					
Electricians	10.15	.45	3%		1/10
Cable splicers	10.40	.45	3%		1/10
Line Construction:					
Lineman-Technicians; Equipment op.	10.15	.45	3%		1/10%
Cable splicers	10.40	.45	3%		1/10%
Groundman	75%JR	.45	3%		1/10%
OMIT:					
Line Construction:					
Groundman (less than 6 months)	50%JR	.45	3%		1/10%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4048 - MOD. #5 (44 FR 16330 - March 16, 1979) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Limpscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
CHANGE: Plumbers & pipefitters:					
Zone 1	$10.37	.45	.65		1.06
Zone 2	10.62	.45	.65		1.06
Zone 3	10.87	.45	.65		1.06
DECISION NO. TX79-4050 - MOD. #5 (44 FR 16334 - March 16, 1979) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
CHANGE: Building Construction:					
Electricians - Zone 2	11.80	.60	8%		.8%
Glaziers	7.40				
Decision NO. 78-VA-3061-Mod. #2 (43 FR 41366-September 15,1978) Albemarle, Culpeper, Fauquier, Fluvanna, Greene, Loudoun, Louisa, Madison, Orange, Prince William and Rappahannock Counties, Virginia					
CHANGE:					
ELECTRICIANS (PRINCE WILLIAM & LOUDOUN CTYS)	$12.20	.70	3%+.80		.13
ELECTRICIANS (ALL OTHER COUNTIES)	6.61				

STATE: Illinois

COUNTIES: Bond, Calhoun Clinton, Greene, Jersey, Monroe, Montgomery, Randolph & Washington

DECISION NUMBER: IL79-2069

DATE: Date of Publication

Supersedes Decision No. IL78-2127, dated October 27, 1978 in 43 FR 50319

DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.63	.80	.97		
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Montgomery County					
Bricklayers, Stonemasons, Cement Masons, Plasterers, Marble-Tile-Terrazzo Workers, Pointers-Caulkers-Cleaners					
Hillsboro & East Thereof	11.10	.70	.75	1.00	
Remainder of County	12.43	.70	.75		.10
Washington County					
South of Hoyleton Road					
Bricklayers, Stonemasons, Cement Blocklayers, Marble-Tile-Terrazzo Workers, Pointers-Cleaners-Caulkers	10.80	.65	.45		
Bond & Clinton Cos., & Remainder of Washington County					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Cement Blocklayers, Pointers, Cleaners-Caulkers	10.70	.35	.50		
Calhoun & Jersey Counties					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers	12.43	.70	.75		.01
Greene County					
Bricklayers, Stonemasons, Plasterers, Blocklayers, Marble-Tile-Terrazzo Workers, Pointers-Cleaners-Caulker	11.50	.50	.52		.02
Randolph County					
Bricklayers, Stonemasons, Terrazzo Workers, Tile Setters	10.80	.65	.45		

DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS: (Cont'd)					
Monroe County					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Pointers-Cleaners-Caulkers	$12.45	.70	.75		.10
CARPENTERS:					
Monroe, Randolph, Clinton & Washington Counties					
Carpenters, Soft Floor Layers	12.685	.60	1.00		
Montgomery County					
Waggoner, Standard City & North Thereof					
Carpenters, Soft Floor Layers	11.95	.55	.55		.06
Millwrights & Piledrivermen	12.45	.55	.55		.06
Remainder of County					
Carpenters, Soft Floor Layers, Millwrights & Piledrivermen	12.685	.75	.90		
Greene County					
Whitehall & North Thereof					
Carpenters & Soft Floor Layers	10.90	.55	.25		.02
Millwrights	11.40	.55	.25		.02
Piledrivermen	11.15	.55	.25		.02
Bond, Calhoun & Jersey Cos., South of Apple Creek in Greene County					
Carpenters, Soft Floor Layers, Millwrights & Piledrivermen	12.685	.70	.90		
CEMENT MASONS:					
Randolph County					
Cement Masons & Plasterers	10.70				
Greene County					
Cement Masons	11.255	.50	.52		.02
Clinton County					
Carlyle & East Thereof					
Cement Masons	11.75				.01

DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Calhoun, Jersey, Monroe, Bond & Remainder of Clinton County					
Cement Masons	$12.085	1.00	.69		
ELECTRICIANS:					
Portion East of Butler Grove, Grisham, Hillsboro & Raymond Twps. in Montgomery County	13.50	.50	3%+.40		.35%
N.W. Part of Montgomery Co.	13.17	.50	3%+.70		1/10%
Monroe County, Red Bud Twp. in Randolph Co., Western ½ of Bond County, Venedy Twp. in Washington Co., Remainder of Clinton & Montgomery	12.73	4%	3%+.65	6%	½%
Huey, Hoffman & Vicinity in Clinton County, Eastern ½ of Bond County & Remainder of Randolph & Washington Counties	12.85	.40	13%		1%
Calhoun, Jersey & Greene Counties	12.35	.50	3%+1.00	6%	3/10%
IRONWORKERS:					
Bond, Clinton, Calhoun, Jersey, Monroe, Washington & Randolph Cos., Litchfield, Hillsboro & South Thereof in Montgomery Co.	12.95	.55	1.05		
Greene Co; & Remainder of Montgomery County	12.25	.55	1.05		.08
LABORERS:					
Clinton County					
Trenton & Vicinity					
Common	11.50	.55	.60		.035
Brick & Plaster Mason Tenders	12.00	.55	.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.75	.55	.60		.035
Dynamite Men	13.10	.55	.60		.035

DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Carlyle & Vicinity					
Common	$11.40	.65	.60		.035
Brick & Plaster Mason Tenders	11.90	.65	.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.65	.65	.60		.035
Dynamite Men	13.00	.65	.60		.035
New Baden & Vicinity					
Laborers	11.45	.65	.60		.035
Brick Mason Tenders & Mortar Mixers	11.95	.65	.60		.035
Cutting & Burning w/a Torch; Chain Saws	11.70	.65	.60		.035
Plaster Tenders	13.05	.65	.60		.035
Montgomery County:					
Hillsboro & Vicinity					
Common	11.10	.55	1.00		.035
Brick & Plaster Mason Tenders	11.60	.55	1.00		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.35	.55	1.00		.035
Dynamite Men	12.70	.55	1.00		.035
Litchfield & Vicinity					
Common	12.05		.60		.035
Brick & Plaster Mason Tenders	12.55		.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.30		.60		.035
Dynamite Men	13.65		.60		.035
Monroe County					
Common	11.80	.55	.35		.035
Air Tool Opr., & Bottom Men on Sewer Trenches	12.30	.55	.35		.035
Mason & Plasterer Tenders	12.05	.55	.35		.035
Dynamite Men	13.40	.55	.35		.035

DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Greene County					
Common	$12.05		.60		.035
Brick & Plaster Mason Tenders	12.05		.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.55		.60		.035
Dynamite Men	13.65		.60		.035
Calhoun County					
Common	12.45		.20		.035
Brick & Plaster Mason Tenders	12.95		.20		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.70		.20		.035
Dynamite Men	14.05		.20		.035
Washington County					
Ashley & Vicinity					
Common	12.25		.40		.035
Brick & Plaster Mason Tenders	12.75		.40		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.50		.40		.035
Dynamite Men	13.85		.40		.035
Vicinity of Nashville					
Common	12.15		.50		.035
Brick & Plaster Mason Tenders	12.65		.50		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.40		.50		.035
Dynamite Men	13.75		.50		.035
Vicinity of Okawville					
Common	12.05		.60		.035
Brick & Plaster Mason Tenders	12.55		.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.30		.60		.035

DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Vicinity of Okawville					
Dynamite Men	$13.65		.60		.035
Bond County:					
Vicinity of Greenville					
Common	12.35		.30		.035
Brick & Plaster Mason Tenders	12.85		.30		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.60		.30		.035
Dynamite Men	13.95		.30		.035
Vicinity of Sorento					
Common	12.40		.25		.035
Brick & Plaster Mason Tenders	12.90		.25		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.65		.25		.035
Dynamite Men	14.00		.25		.035
Pocohontas & Vicinity					
Common	12.25		.40		.035
Brick & Plaster Mason Tenders	12.75		.40		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.50		.40		.035
Dynamite Men	13.85		.40		.035
Jersey County					
Common	12.40		.25		.035
Brick & Plaster Mason Tenders	12.90		.25		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.65		.25		.035
Dynamite Men	14.00		.25		.035

DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Randolph County					
Chester & Vicinity					
Common	$11.00	.65	1.00		.035
Brick & Plaster Mason Tenders	11.25	.65	1.00		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.50	.65	1.00		.035
Dynamite Men	12.60	.65	1.00		.035
Sparta & Vicinity					
Common	11.50	.55	.60		.035
Brick & Plaster Mason Tenders	12.00	.55	.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.75	.55	.60		.035
Dynamite Men	13.10	.55	.60		.035
LATHERS:					
Montgomery Co., & the Northern ½ of Greene Co.	13.15				
Bond & Washington Cos.	11.35				
Southern ½ of Greene Co. & Remainder of Counties	13.735			.65	.01
PAINTERS:					
Randolph County					
Commercial	9.00				
Industrial	10.90				
Remainder of Counties					
Commercial	11.93	.55	.35		
Industrial	12.18	.55	.35		
PLASTERERS:					
Bond, Washington, Calhoun, Clinton, Monroe & Jersey Cos.	13.815				

DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS:					
Randolph County	$14.25	.35	.55		.08
Hillsboro & North Thereof in Montgomery County	12.43	.35	.88		.07
Valmeyer & Vicinity in Monroe County; Bond, Greene, Jersey, Calhoun Counties; South & West of Route #127 in Montgomery Co.	14.50	.48	.96		.05
ROOFERS:					
Washington County	9.40	.60	.20		
Montgomery County	12.93	.70			
Remainder of Counties:					
Roofers	10.95	.67	.55		.03
Kettlemen	8.75	.67	.55		.03
SHEET METAL WORKERS:					
Calhoun County	10.78	.55	.55		.12
Remainder of Counties	11.83	.60	1.00	6%	.02
SPRINKLER FITTERS	13.08	.75	1.05		.08

DECISION NO. IL79-2069 ILL-2-PEO-1-2

POWER EQUIPMENT OPEATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$12.62	.87	1.51		.05
GROUP II	10.69	.87	1.51		.05
GROUP III	10.04	.87	1.51		.05
GROUP IV	9.94	.87	1.51		.05
GROUP V	9.69	.87	1.51		.05
GROUP VI					
a.	13.67	.87	1.51		.05
b.	13.92	.87	1.51		.05
c.	11.97	.87	1.51		.05
d.	12.29	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

Group I Cranes, Draglines, Shovels, Skimmer Scoops, Clamshells or Derrick Boats, Pile Drivers, Crane-Type Backhoes, Asphalt Plant Opers. Plant Opers., Ditching Machines or Backfillers (requiring oilers), Dredges, Asphalt Spreading Machines, Heavy Duty Mechanic, Ass't. Master Mechanic, All Locomotives, Cableways or Tower Machines, Hoists 2 drum or more (where oiler or fireman is required), Hoists-2 drum or more (where oiler or firemen is not required) Hydrualic Backhoes, Ditching Machines or Backfiller (not required oilers) Cherry Pickers, Overhead Cranes, Roller (Steam or Gas) Concrete Pavers, Excavators, Concrete Breakers, Concrete Pumps, Bulk Cement Plants, Cement Pumps, Derrick-Type Drills, Mixers (over 3 bags) and Boad Oprs., (25' & over), Motor Graders or Pushcats, Scoops or Tournapulls, Bulldozers, Endloaders or Fork-Lifts, Power Blade or Elevating Graders, Winch Cats, Boom Tractors, and Pipe Wrapping or Painting Machines, Drills (other than derrick type) 1-drum-hoists, Mud Jacks, Mixers (2 or 3 bags), Conveyors (2), Air Compressors (2), Water Pumps regardless of size (2), Welding Machines (2) Siphons or Jets (2), Winch Heads or Apparatus (2) and Light Plants (2), Mixers (under 2 bags), all Tractors regardless of size (Straight Tractor Only), Firemen on Stationary Boilers, Automatic Elevators, Form Grading Machines, Finishing Machines, Power-Sub-Grader or Ribbon Machine, Longitudinal Floats, Boat Oprs., (under 25 ft., conveyors (1), Distribution Oprs., On Trucks, Siphones or Jets (1) Winch Heads or Apparatuses (1), Light Plant (1) Mixers (under 2 bags)

GROUP II Air Compressor (1), Water Pumps regardless of size (1) Welding Machines (1)

GROUP III Firemen and Asphalt Spreader Oilers

GROUP IV Heavy Equipment Oilers (truck cranes, dredges, monigans, large cranes, etc.)

GROUP V Oilers

GROUP VI

a. Engineers Operating under air pressure
b. Engineers Operating in air over 10 lbs. pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs pressure

DECISION NO. IL79-2069

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.80	.65	20.00a		
GROUP II	11.20	.65	20.00a		
GROUP III	11.40	.65	20.00a		

TRUCK DRIVERS

GROUP I: - Drivers on 2 Axle Trucks hauling less than 9 tons, Air Compressor and Welding Machine including those pulled by separate units, Warehouseman, Greasers & Tiremen, Pick-Up Trucks when hauling materials, Tools, or men to and from and on the jobs site; Fork Lifts up to 6,000 lbs., capacity

GROUP II: - 2 or 3 Axle Trucks hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winch Trucks, Hydrolifts Trucks, or similar equipment when used for transportation purposes, Fork Lifts over 6,000 lb. capacity; Winch Trucks; 4-Axle combination units; ticket writers

GROUP III: - 2,3 or 4 Axle Trucks, Hauling 16 tons or more, Drivers on Oil Distributors, Water Pulls, Mechanics & Working Foreman; 5-Axle or more combination units; Dispatcher

FOOTNOTES

a. Per Week Per Employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR,5.5 (a) (1) (ii)).

STATE: Illinois
DECISION NUMBER: IL79-2070
Supersedes Decision No. IL78-2041, dated October 27, 19[illegible] FR 50323
DESCRIPTION OF WORK: Building Construction Projects, (exclud[illegible] ngle family homes & apartments up to and including 4 stories).

COUNTIES: Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash & Wayne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fayette County	$12.63	.80	.96		.01
Clark, Douglas & Edgar Cos.	12.15	.50	1.20		.01
Remainder of Counties	11.30	.45	.60		.03
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Fayette County:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers-Caulkers-Cleaners-Marble-Tile-Terrazzo Workers	12.43	.70	.75		.10
Coles & Cumberland Cos;					
Arcola & South Thereof in Douglas County:					
Bricklayers & Stonemasons	12.45	.45	.50		.05
Edgar Co; & North of Arcola in Douglas County:					
Bricklayers & Stonemasons	12.45	.45	.50		.05
Remainder of Counties:					
Bricklayers, Stonemasons, Blocklayers, Pointers-Caulker, Cleaners-Marble-Tile-Terrazzo Workers	10.95		.50		
CARPENTERS:					
Fayette, Clay, Richland & Wabash Cos; Southeastern Part of Edwards County:					
Carpenters, Piledrivermen & Soft Floor Layers	10.76	.65	.50		.03
Millwrights	11.11	.65	.50		.03
Crawford & Lawrence Cos;					
Eastern ½ of Jasper Co.:					
Carpenters & Soft Floor Layers	11.50	.70	.77		.02
Millwrights	12.10	.70	.77		.02
Piledrivermen	11.90	.70	.77		.02
Wayne Co.; Northeastern & Western ½ of [illegible] Co.:					
Carpenters, [illegible] men & Soft Floor Layers	1[illegible]	.45	.50		.02
Millwrights	1[illegible]	.45	.50		.02

DECISION NO. IL79-2070

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Coles, Clark, Cumberland, Edgar, Effingham Cos; Western ½ of Jasper Co., & Southern part of Douglas County:					
Carpenters & Soft Floor Layers	$13.075	.55	.30		.07
Millwrights & Piledrivermen	13.575	.45	.30		.07
Northern part of Douglas Co., including Tuscola & Newman:					
Carpenters & Soft Floor Layers	12.315	.45	1.10		.13
Millwrights & Piledrivermen	12.815	.45	1.10		.13
CEMENT MASONS & PLASTERERS:					
Northern Part of Fayette Co.:					
Cement Masons & Plasterers	11.70		.65		
Remainder of Fayette Co.:					
Cement Masons	11.75				.01
Clark, Edgar & Richland Cos.:					
Cement Masons & Plasterers	9.50			.50	.01
Crawford, Lawrence & Wabash Cos.:					
Cement Masons & Plasterers	11.05	.80	.80		
Clay, Edwards & Jasper Cos; & Remainder of Wayne Co:					
Cement Masons & Plasterers	11.45				
Coles, Cumberland & Effingham Cos; & Southern part of Douglas County:					
Cement Masons	12.01				
Plasterers	11.10				
Northern part of Douglas [illegible]luding Tuscola & Newman:					
Cement Masons	13.325	.45	.25		.025
Plasterers	12.515	.45			.025

DECISION NO. IL79-2070

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd)					
S.W. Corner of Wayne Co.:					
Cement Mason & Plasterers	$10.70				
ELECTRICIANS:					
Wabash County	13.45	.50	3%		½%
Coles & Cumberland Cos.; Southern ½ of Douglas Co.; Twps. of Bishop, Douglas, Lucas, Moccasin, St. Francis, Summit & Teutopols in Effingham County	13.50	.50	3%+.40		.35%
Edwards, Wayne & Clay Cos.; & Remainder of Effingham & Fayette Counties	12.85	.40	13%		1%
Northern ½ of Douglas Co., Twps. of Banner & Liberty in Effingham Co,; Twps. of Hurricane, S. Hurricane, Ramsey, Bowling Green, Carson & Loudon in Fayette County	13.50	.50	3%+.40		.35%
Remainder of Counties	12.80	.50	3%+.70		.01
GLAZIERS:					
Coles & Douglas	11.34	.45	.50		
Clark & Edgar Counties	14.19				
Edwards, Lawrence, Wabash & Wayne Counties	10.905	.48	.50		.25
IRONWORKERS:					
Coles, Cumberland, Douglas & Edgar Counties	12.15	.65	1.00		.08
Avena & North thereof in Fayette County & Remainder of Effingham County	12.25	.55	1.05		.08
Fayette Co., (Southern ½ below Brownstown)	12.95	.55	1.05		
Clark, Jasper, Crawford Cos.; Northern ½ of Lawrence Co., North of Olney in Richland Co., Dexter & East thereof in Effingham Co.; Remainder of Clay County	11.30	.90	2.05		.15

DECISION NO. IL79-2070

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Coles & Cumberland Cos.:					
Unskilled	$11.15	.55	.40		.035
Semi-Skilled	11.35	.55	.40		.035
Skilled	11.55	.55	.40		.035
Clark, Douglas & Edgar Cos.:					
Unskilled	11.05	.45	.60		.035
Semi-Skilled	11.25	.45	.60		.035
Skilled	11.40	.45	.60		.035
Remainder of Counties	9.00	.50	.30		.035
LATHERS:					
Richland County	13.735			.65	.01
Fayette County	13.15				
Effingham County	11.00				
Coles, Crawford, Douglas & Edgar Counties	11.99	.45	.50		.01
PAINTERS:					
Fayette County:					
Commercial	11.93	.55	.35		
Industrial	12.18	.55	.35		
Edwards & Wayne Counties:					
Brush & Roller	8.45				
Clay County:					
Brush	8.50				
Roller	9.25				
Wabash County:					
Brush	9.25				
Roller	9.50				
Crawford, Jasper, Effingham, Lawrence & Richland Cos.:					
Commercial & Industrial	10.55	.55			
Remainder of Counties	12.32	.65	.40		.04
PLUMBERS & STEAMFITTERS:					
Clay & Fayette Counties	13.00	1.20	1.40		.15
Edwards, Wabash & Lawrence Counties	13.575	.50	.90		.06
Wayne County	13.50	.50	.75		.08
Clark, Crawford, Edgar & Richland Counties	13.85	.60	1.00		.10
Remainder of Counties	12.15	.35	1.15		.1

DECISION NO. IL79-2070

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Fayette County:					
Roofers	$10.95	.67	.55		.03
Kettlemen	8.75	.67	.55		.03
Edwards & Wabash Counties:					
Composition	10.63	.60	.50		
Slate & Tile	10.88	.60	.50		
Richland & Wayne Counties	8.75	.60			
Clay, Effingham & Jasper Cos.:					
Roofers	12.08	.30	.30		.02
Coles, Cumberland & Douglas Cos.:					
Roofers	12.39	.70	.45		.03
Remainder of Counties	12.20	.50	.30		
SHEET METAL WORKERS:					
Crawford County	12.78	.40+a	.83		.07
Clark, Coles, Cumberland, Edgar & Douglas Counties	11.94	.60+a	.67		.16
Remainder of Counties	11.83	.60	1.00	6%	.02
SPRINKLER FITTERS	13.08	.75	1.05		.02

WELDER - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a. 3% of gross earning to SASMI

DECISION NO. IL79-2070

ILL-2-PEO-1-2

POWER EQUIPMENT OPEATORS: FAYETTE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$12.62	.87	1.51		.05
GROUP II	10.69	.87	1.51		.05
GROUP III	10.04	.87	1.51		.05
GROUP IV	9.94	.87	1.51		.05
GROUP V	9.69	.87	1.51		.05
GROUP VI					
a.	13.67	.87	1.51		.05
b.	13.92	.87	1.51		.05
c.	11.97	.87	1.51		.05
d.	12.29	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

Group I Cranes, Draglines, Shovels, Skimmer Scoops, Clamshells or Derrick Boats, Pile Drivers, Crane-Type Backhoes, Asphalt Plant Opers. Plant Opers., Ditching Machines or Backfillers (requiring oilers), Dredges, Asphalt Spreading Machines, Heavy Duty Mechanic, Ass't. Master Mechanic, All Locomotives, Cableways or Tower Machines, Hoists 2 drum or more (where oiler or fireman is required), Hoists-2 drum or more (where oiler or firemen is not required) Hydraulic Backhoes, Ditching Machines or Backfiller (not required oilers) Cherry Pickers, Overhead Cranes, Roller (Steam or Gas) Concrete Pavers, Excavators, Concrete Breakers, Concrete Pumps, Bulk Cement Plants, Cement Pumps, Derrick-Type Drills, Mixers (over 3 bags) and Boat Oprs., (25' & over), Motor Graders or Pushcats, Scoops or Tournapulls, Bulldozers, Endloaders or Fork-Lifts, Power Blade or Elevating Graders, Winch Cats, Boom Tractors, and Pipe Wrapping or Painting Machines, Drills (other than derrick type) 1-drum-hoists, Mud Jacks, Mixers (2 or 3 bags), Conveyors (2), Air Compressors (2), Water Pumps regardless of size (2), Welding Machines (2) Siphons or Jets (2), Winch Heads or Apparatus (2) and Light Plants (2), Mixers (under 2 bags), all Tractors regardless of size (Straight Tractor Only), Firemen on Stationary Boilers, Automatic Elevators, Form Grading Machines, Finishing Machines, Power-Sub-Grader or Ribbon Machine, Longitudinal Floats, Boat Oprs., (under 25 ft., conveyors (1), Distribution Oprs., On Trucks, Siphones or Jets (1) Winch Heads or Apparatuses (1), Light Plant (1) Mixers (under 2 bags)

GROUP II Air Compressor (1), Water Pumps regardless of size (1) Welding Machines (1)

GROUP III Firemen and Asphalt Spreader Oilers

GROUP IV Heavy Equipment Oilers (truck cranes, dredges, monigans, large cranes, etc.)

GROUP V Oilers

GROUP VI

a. Engineers Operating under air pressure
b. Engineers Operating in air over 10 lbs. pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs pressure

DECISION NO. IL79-2070

ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS: Remainder of Counties:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.20	.75	.75		.08
CLASS II	12.10	.75	.75		.08
CLASS III	11.90	.75	.75		.08
CLASS IV	8.00	.75	.75		.08

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power Cranes, Draglines, Derricks, Shovels, Gradalls, Mechanics, Concrete Mixers with Skip, Tournamixers, Two Drum Machine, One Drum Hoists with Tower or Boom, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Winch or Hydraulic Boom Truck, Truck Crane, Tournapull, Tractor Operating Scoops, Bulldozer, Push Tractor, Asphalt Planer, Finishing Machine on Asphalt, Large Rollers on Earth, Rollers on Asphalt Mix, Ross Carriers or similar Machine, Gravel Processing Machine, Asphalt Plant Engineer, Paver Operator, Farm Tractor w/half yard Bucket and/or Backhoe Attachment, Dredging Equipment or Dredge Engineer or Dredge Operator, Central Mix Plant Engineer, CMI or similar type machine, Concrete Pump, Truck or Skid Mounted, Tower Crane, Engine or Rock Crusher Plant, Concrete Plant Engineer, Ditching Machine with dual attachment, Tractor Mounted Loaders, Cherry Picker, Hydro Crane, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machine, Back Filler, Elevating Machine, Power Blade, Drilling Machines, incl. Well Testing, Caissons, Shaft or any similar type Drilling Machines, Motor Driven Paint Machine, Pipe Cleaning Machine, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, (Head Equipment Greaser), Barber-Greene Loaders, Formless Paver, (Well Point System), Concrete Spreader, Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Piledriver - Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine, Freezing Operator, Chair Cart - Self-Propelled, Hydra Seeder, Straw Blower, Power Sub Grader, Bull Float, Finishing Machine, Self-Propelled Pavement Breaker (Backhoe Attached), Lull (or similar type machine), Two Air Compressors, Compressors hooked in Manifold, Overhead Crane, Chip Spreader, Mud Cat, Sull-Air

DECISION NO. IL79-2070

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS IV - Concrete Mixers without Skips, Rock Crusher, Ditching Machine under 6', Curbing Machine, One Drum Machines without Tower or Boom, Air Tugger, Self Propelled Concrete Saw, Machine Mounted Post Hole Digger, Two to Four Generators, Water Pumps, or Welding Machines, within 400 feet, Air Compressor 600 cu. ft. and under, Rollers on Aggregate and Seal Coat Surfaces, Fork Lift, Concrete and Blacktop Curb Machine, Farm Tractor with less than half yard Bucket, One Water Pump, Oilers, Air Valves or Steam Valves, One Welding Machine, Truck Jack, Mud Jack, Gunite Machine, House Elevators when used for Hoisting Material, Engine Tenders, Fireman, Wagon Drill, Flex Plane, Conveyor, Siphons and Pulsometer, Switchman, Fireman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Self-Propelled Power Broom, Striping Machine (motor driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Deck Hands, Truck Crane, Oiler Driver, Cement Blimps, Form Grader, Temporary Heat, Throttle Valve, Farm Tractor

DECISION NO. IL79-2070

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.80	.65	20.00a		
GROUP II	11.20	.65	20.00a		
GROUP III	11.40	.65	20.00a		

TRUCK DRIVERS

GROUP I: - Drivers on 2 Axle Trucks hauling less than 9 tons, Air Compressor and Welding Machine including those pulled by separate units, Warehouseman, Greasers & Tiremen, Pick-Up Trucks when hauling materials, Tools, or men to and from and on the jobs site; Fork Lifts up to 6,000 lbs., capacity

GROUP II: - 2 or 3 Axle Trucks hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winch Trucks, Hydrolifts Trucks, or similar equipment when used for transportation purposes, Fork Lifts over 6,000 lb. capacity; Winch Trucks; 4-Axle combination units; ticket writers

GROUP III: - 2,3 or 4 Axle Trucks, Hauling 16 tons or more, Drivers on Oil Distributors, Water Pulls, Mechanics & Working Foreman; 5-Axle or more combination units; Dispatcher

FOOTNOTES

a. Per Week Per Employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR.5.5 (a) (1) (ii)).

STATE: Illinois COUNTY: Kankakee
DECISION NUMBER: IL79-2071 DATE: Date of Publication
Supersedes Decision No.: IL78-2166, December 9, 1978 in 44 FR 71
DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.01	.91	.99		.05
BOILERMAKERS	13.05	1.05+.40	1.00	5%	.03
BRICKLAYERS, STONEMASONS, Marble Setters, Terrazzo Workers, Tile Setters, Pointers, Caulkers & Cleaners	12.60	.80	.75		
CARPENTERS:					
Building					
Carpenters, Millwrights, Soft Floor Layers & Pile-drivermen	12.72	.65	.80		.01
Residential	70%JR				
CEMENT MASONS	12.60	.80	.75		
ELECTRICIANS:					
Building	13.80	.80	3%+.70		2/10%
Residential - up to 36 units 4 Floors or less	7.86	.80	3%+.60		2/10%
ELEVATOR CONSTRUCTORS:					
Constructors	12.20	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS:					
Area East of Cabery in Kankakee County	12.46	.60	.30		.01
Remainder of Kankakee Co.	11.80	.48	.89		.01
IRONWORKERS	12.50	.75	.75		.05
PAINTERS:					
Brush & Roller	10.85	.55	.50		
Spray	10.90	.45	.50		
PLASTERERS	11.50	.80	.75		
PLUMBERS & STEAMFITTERS	13.86	.50	1.00		.08
ROOFERS	13.45	.65			
SHEET METAL WOKERS	13.52	.80	.98		.09
SPRINKLER FITTERS	13.08	.75	1.05		.08
TRUCK DRIVERS					
2-3 Axle Trucks	11.275	29.00b	31.00b		
4 Axle Trucks	11.475	29.00b	31.00b		
5 Axle Trucks	11.675	29.00b	31.00b		
6 Axle Trucks	11.825	29.00b	31.00b		

DECISION NO. IL79-2071

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through G
b. Per week - Per Employee

DECISION NO. IL79-2071

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Unskilled	$10.77	.65	.60		.035
Semi-Skilled	10.97	.65	.60		.035
Skilled	11.17	.65	.60		.035

UNSKILLED: Common Laborer, Carpenter Tenders; Tool Cribmen, Firemen or Salamander Tenders; Flagmen; Gravel Box Men; Dumpmen & Spotters; Form Handlers; Material Patchers; Landscapers, Unloading Explosives; Laying of Sod; Planting of Trees; Asphalt Plant Laborers; Wrecking Laborers; Writer of Scale Tickets; Fire Shop Laborers; Fireproofing Laborers; Janitors; Wrecking-Dismantling Buildings; Wallmen & Hosemovers; Driving of Stakes; Stringlines for all Machinery

SEMI-SKILLED: Handling of materials treated with Oil, Creosote, Asphalt or any foreign material, Track Laborers; Cement Handlers; Chloride Handlers; The unloading and Laborers w/steel workers 7 rebars; Concrete Workers (wet); Batch Dumpers; Mason & Plasterer Tenders & Material Wheelers Kettlemen & Tarmen; Tank Cleaners; Plastic Installers; Scaffold Workers; Motorized Buggies or Motorized Unit used for wet concrete or handling of building materials laborers w/dewatering systems; All Sewer Workers plus depth; Rod & Chainmen with Land Surveyors; Vibrator Operators; Mortar Mixer Operator; Cement Silica; Clay; Fly Ash; Lime & Plasters Handlers (bulk or bag); Cofferdam Workers plus depth; (on concrete paving) placing, Cutting & Trying or Reinforcing; Deck Hand; Brake Hand & Shore Laborers; Bankmen on Floating Plant; Asphalt Workers w/machine; Asphalt Raker; Grade Checker

SKILLED: Dynamite Man or Blasters; Caisson Workers plus depth; Gunnite; Nozzle Men Leadman on Sewer Work; Welder; Cutters; Burners; Torchmen; Chain Saw Operator; Jackhammer & Drill Operators; Layout Man; Steel Form Setters (street & highway); Air Tamping Hammerman; Signal Man on Crane, Concrete Saw Operator; Screenman on Asphalt Pavers; Laborers Tending Masons w/hot materials are used; Multiple Concrete Duct-Leadmen; Curb Asphalt Machine Operator; Ready-Mix Scaleman; Portable or Temporary Plant; Laborers Handling Masterplate or similar materials; Laser Beam Operator; Coring Machine Operator

DECISION NO. IL79-2071

ILL-12-PEO-1

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$13.25	1.10	1.10	.60	.05
CLASS II	11.95	1.10	1.10	.60	.05
CLASS III	10.80	1.10	1.10	.60	.05
CLASS IV	9.55	1.10	1.10	.60	.05

CLASS I - Asphalt Plant, Asphalt Spreader, Auto-Grad, Batch Plant, Benoto (Requires two engineers), Boiler & Throttle Valve, Caisson Rigs, Central Redi-Mix Plant, Combination Backhoe Front End Loader Machine Compressor & Throttle Valve, Concrete Breaker (Truck Mounted), Conveyor, Concrete Paver, Concrete Placer, Concrete Tower, Cranes (all), Derricks (all), Grader, Elevating, Grouting Machines Highlift Shovels or Front End Loader 2¼ yd. & over, Hoists, One, Two & Three Drum Hoists, Two Tugger One Floor, Hydraulic Boom Truck, Locomotives (all), Motor Patrol, Pile Drivers & Skid Rig, Post-Hole Digger, Pre-Stress Machine, Pump Cretes Dual Ram (requiring frequent lubrication & water), Pumpcretes, Squeeze Cretes - Screw type Pumps, Gypsum Bulker & Pump, Rock Drill (Self-Propelled), Rock Drill (truck mounted), Scoops - Tractor Drawn, Slip Form Paver, Straddle Buggies, Tournapull, Tractor with Boom & Side Boom, Trenching Machines

CLASS II - Boilers, Bulldozers, Broom all Power Propelled, Concrete Mixer (2 bag & over), Conveyor Portable, Forklift Truck, Greaser Engineer, Highlift Shovels or Front End Loaders under 2¼ yd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (All), Steam Generators, Stone Crushers, Tractors, (All), Winch Trucks with "A" Frame

CLASS III - Air Compressor - Small 125 & under (1 to 5 not exceed a total of 300 ft.), Air Compressor - large over 125, Combination - Small Equipment Opr., Generators under & over 50 KW, Heaters, Mechanical Pumps over 3" (1 to 3 not to exceed a total of 300 ft.), Pumps, Well Points, Welding Machine (2 through 5), Winches, 4 Small Electric Drill Winches

CLASS IV - Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

STATE: Illinois

COUNTIES: Boone, DeKalb, DuPage, Kane, Kendall, Lake, McHenry & Will

DECISION NUMBER: IL79-2072

DATE: Date of Publication

Supersedes Decision No. IL78-2138, dated October 27, 1978 (43 FR 50328)

DESCRIPTION OF WORK: Heavy and Highway Construction Projects

ILL-HH-1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
DuPage & Lake Cos.	$12.70	1.08	1.02		.08
Will County	11.43	.70	.85		
Remainder of Counties	11.74	.75	1.00		
CEMENT MASONS:					
Boone County	11.78	.55	1.00		
DuPage County	10.90	.68	.70		.06
Kane, Kendall, McHenry & DeKalb Cos.	13.20	.90	.86		
Lake County	11.75	.85	1.05		
Will County	11.02	.65	1.28		.05
ELECTRICIANS:					
Boone & DeKalb Counties	12.96	.50	3%+.80		1%
DuPage County	14.20	5%	9%	8%	½%
Kendall County; (Townships of Aurora, Sugar Grove, Big Rock, Kaneville, Blackberry, Batavia, Geneva and the City of St. Charles in Kane County; Sandwich Township in DeKalb County)	14.67	6%	11%		½%
McHenry County; Kane Co.; (that portion North of St. Charles, Geneva & Blackberry Townships) excluding St. Charles School for Boys; Townships of Hamshire, Rutland, Dundee, Burlington, Plato, Elgin, Virgin & Compton	14.75	5%	13%		5/10%
Lake County	13.5[illegible]	.65	3%+1.00		1/4%
Will County	15.11	.88	3%+.70		2/10%
IRONWORKERS:					
Boone County; DeKalb Co., (excluding S.E. 2/3, including Sycamore & DeKalb) & the N.W. half of McHenry County	12.5[illegible]	.75	.375		

DECISION NO. IL79-2072

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS: (Cont'd)					
Kane County; DeKalb County (S.E. 2/3, including Sycamore & DeKalb), DuPage County, (excluding Argonne & Vicinity) the Northern half of Kendall Co.; & the S.E. ⅛ of McHenry County	$13.65	.75	.525		.08
Lake County; Hebron & Woodstock & E. thereof in McHenry County	13.65	1.24	1.20		.10
Will County; Argonne & Vicinity in DuPage County; & Southern half of Kendall County	12.00	2.65	.525		.02
LABORERS:					
DeKalb County:					
Common, Landscaping & Carpenter Tenders	10.75	.60	.55		.035
Mortar Mixers, Mason & Plasterer Tenders, Vibrator Operator	10.95	.60	.55		.035
Bottom Sewer Workers, Jackhammer Operator, Cofferdam, Caisson Workers, Gunnite Nozzleman	11.05	.60	.55		.035
LINEMEN:					
Boone, DeKalb, DuPage, Kane, Kendall, Lake & McHenry Cos.					
Linemen, Crane Operator (15 ton or over); Digger Operator	12.83	.45	3%		½%
Equipment Operator	10.92	.45	3%		½%
Truck Driver	8.70	.45	3%		½%
Groundman	8.41	.45	3%		½%
Will County:					
Linemen & Equipment Operators	12.47	.50	3%+.50		2/10%
Cable Splicers	13.83	.50	3%+.50		2/10%

DECISION NO. IL79-2072

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Kane, Kendall, DeKalb, DuPage & McHenry Cos.:					
Brush and Spray	$ 9.34	.60	.70		.06
Lake County:					
Brush	10.85	.575	.65		.013
Boone County:					
Brush & Roller	10.95	.55			
Open Structural & Sandblasting	11.20	.55			
Spray	11.50	.55			
Will County:					
Brush	10.45	.76	.55		.04
Bridges with:					
Butt Plates & Handrails	10.45	.76	.55		.04
W/Superstructures	11.45	.76	.55		.04
WO/Superstructures	10.95	.76	.55		.04
TRUCK DRIVERS:					
Boone County:					
2-3 Axle Trucks	11.25	.55	1.00		
4 Axle Trucks	11.40	.55	1.00		
5 Axle Trucks	11.60	.55	1.00		
6 Axle Trucks	11.80	.55	1.00		
Remainder of Counties:					
2-3 Axle Trucks	11.45	29.00a	33.00a		
4 Axle Trucks	11.60	29.00a	33.00a		
5 Axle Trucks	11.80	29.00a	33.00a		
6 Axle Trucks	12.00	29.00a	33.00a		

FOOTNOTES:
a. Per Week Per Employee

DECISION NO. IL79-2072

ILL-3-LAB-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABROERS:					
Boone, Kane, Kendall & McHenry					
CLASS 1					
Common Laborers, Asphalt Laborers, Asphalt Plant Laborers, Stripping Laborers, Concrete Saw, Self-Propelled Saw, Laser Beam	$ 9.20	.57	1.10		
CLASS 2					
Air Tampers & Vibrators	9.25	.57	1.10		
CLASS 3					
Mortar Concrete Mixers	9.30	.57	1.10		
CLASS 4					
Stringline & Form Setters, Torchman, Sheeting & Cribbing Men, Black Top Rackers, Lutmen, Machine Screwmen	9.35	.57	1.10		
CLASS 5					
Chain Saw Men, Jackhammermen, Drillmen, Concrete Breaker, Air Spade	9.45	.57	1.10		
CLASS 6					
Tunnel Men, Tile Layers & Bottom Men	9.55	.57	1.10		
CLASS 7					
Caisson Diggers, Dynamiters	9.70	.57	1.10		

DECISION NO. IL79-2072 ILL-9-LAB-1-2-3

LABORERS: DuPage & Will Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1					
Common Laborers, Plasterer Laborers, Pumps for De-Watering & other Unclassified Laborers	$10.10	.57	1.20		
CLASS 2					
Cement Gun Laborers	10.175	.57	1.20		
CLASS 3					
Scaffold Laborers & Chimney Laborers over 40'	10.20	.57	1.20		
CLASS 4					
Windlass & Cement Gun Nozzle Laborers - Gunnite	10.20	.57	1.20		
CLASS 5					
Stone Handlers & Derrickmen	10.30	.57	1.20		
CLASS 6					
Jackhammermen	10.325	.57	1.20		
CLASS 7					
Concrete Vibrator, Plumbers' Laborer & Chain Saw Operator	10.35	.57	1.20		
CLASS 8					
Firebrick & Boiler Setters' Laborers	10.42	.57	1.20		
CLASS 9					
Chimney Laborers on Firebrick, Caisson Diggers & Well Point System Men	10.45	.57	1.20		
CLASS 10					
Boiler Setter Plastic Laborers	10.55	.57	1.20		
CLASS 11					
Jackhammer on Firebrick Only	10.655	.57	1.20		

DECISION NO. IL79-2072 ILL-49A-LAB-2-3

LABORERS: LAKE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER & WATER MAIN EXTENSIONS					
CLASS 1					
General Laborers & Top Laborers & Flagmen	$ 8.55	.57	1.10		
CLASS 2					
Second Bottom Men	8.775	.57	1.10		
CLASS 3					
Well Point System-Jackhammer Men (Tampers & Vibrators) Bottom Men, Pipelayers on Drains & Pipelayer Men; All Tunnel Work	8.90	.57	1.10		
STREET PAVING & GRADE SEPARATION					
CLASS 1					
General, Asphalt & Asphalt Plant Laborers; Flagmen	8.55	.57	1.10		
CLASS 2					
Laborer's on Apsco, Birch Overman & Similar Spreader Equipment, Machine Screwmen, Mitre B Spreaders	8.825	.57	1.10		
CLASS 3					
Form Setters; Well Point; Jackhammer (Tampers & Vibrators); Bottom Men; Pipelayers on Drains; Catch Basin Diggers & Manhole; Power Driven Concrete Saw	8.90	.57	1.10		

DECISION NO. IL79-2072 ILL-10-PEO-2-3

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.90	1.10	1.10	.60	.05
CLASS II	12.35	1.10	1.10	.60	.05
CLASS III	11.60	1.10	1.10	.60	.05
CLASS IV	10.50	1.10	1.10	.60	.05
CLASS V	9.50	1.10	1.10	.60	.05

CLASS I Apshalt Plant, Asphalt Heater & Planer Combination, Asphalt Spreader, Autograde, Belt Loader, Caisson Rigs, Central Redimix Plant, Concrete Breaker (truck mounted), Concrete Conveyor, Concrete Paver over 27E cu. ft., Concrete Placer, Concrete Tube Float, Cranes, All Attachments, Cranes, Linden, Peco & Machines of a like nature, Derricks, Traveling, Dredges, Euclid Loader, Elevating Type, Gradall, & Machines of a like nature, Derricks, All, Derrick Boats, Derricks, Travelling, Dredges, Euclid Loader, Elevating Type, Gradall, and machines of a like nature, Grader, Elevating Hoists, 1,2 & 3 drum. Locomotives, all, Mucking Machine, 1 cu. yd. & over, Mucking Machine, under 1 cu. yd., Piledrivers & Skid Rig, Pre-Stress Machine, Pump Cretes Dual Ram (requiring frequent lubrication & water), Rock Drill Crane type, Slip Form Paver, Straddle Buggies, Tractor w/Boom, Tractaire w/ Attachments, Trenching Machine, Underground Boring &/or Mining Machine under 5 ft., Wheel Exactor Widener (Apsco)

CLASS II Mechanic-Welder, Batch Plant, Bituminous Mixer, Bulldozer Combination Backhoe Front End Loader Machine, Concrete Breaker or Hydro-Hammer, Concrete Grinding Machine, Concrete Mixer or Paver 7S Series to & including 27 cu. ft., Concrete Spreader, Concrete Curing Machine, Burlap Machine, Belting Machine & Sealing Machine, Finishing Machine, Concrete Grader, Motor Patrol, Auto Patrol, Form Grader, Pull Grader, Subgrader, Highlift Shovels or Front End Loader, Hydraulic Boom Trucks (All Attachments), Locomotives, Dinky, Pump Cretes; Squeeze Cretes; Screw Type Pumps Gypsum Bulker & Pump, Rock Drill (Self-Propelled), Roto-Tiller, Seaman, Etc. Self-Propelled Scoops; Tractor Drawn, Self-Propelled Compactor, Spreader, Chipstone, Etc., Scraper, Tank Car Heater, Tractor, Push, Pulling Sheeps Foot, Disc., Compactor, Etc. Tug Boats

DECISION NO. IL79-2072

POWER EQUIPMENT OPERATORS: (Cont'd)

CLASS III Boilers, Boiler & Throttle Valve, Brooms, All Power Propelled, Cement Supply Tender, Compressor & Throttle Valve, Concrete Mixer (2 Bags & over) Conveyor, Portable, Fireman on Boiler, Forklift Trucks, Greaser Engineer, Grouting Machine Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger, Single Drum, Jeep Diggers, Pipe Power Saw, Concrete, Power-Driven, Pug Mills, Rollers, All, Steam Generators, Stone Crushers, Stump Machine, Winch Trucks with "A" Frame, Work Boats, Tamper, Form Motor Driven

CLASS IV Air Compressors, All, Generators, Heaters, Mechanical, Light Plants, All (1 through 5), Pumps, All, Pumps Well Points, Tractaire, Welding Machines (2 through 6)

CLASS V Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Missouri & Kansas

COUNTIES: Cass, Clay, Jackson, Platte & Ray Missouri; Johnson & Wyandotte, Kansas

DECISION NO.: MO79-4080

DATE: Date of Publication

Supersedes Decision No. MO78-4048 dated May 5, 1978 in 43 FR 19555

DESCRIPTION OF WORK: Residential projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.67	.60	1.55		.05
BOILERMAKERS	12.00	1.15	1.00		.03
BRICKLAYERS & STONEMASONS	11.025	.80	.35	1.00	
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN	10.50	.50	.30		.05
CEMENT MASONS	11.675	.65	.50		
ELECTRICIANS (Up to and including 3 stories);					
ZONE 1 - Johnson County, Kansas (that portion of Johnson Co., west of Aubry, Oxford & Shawnee Townships)	9.30	.45	3%+.20		.05
ZONE 2 - Cass, Clay, Jackson, Platte & Ray Cos. Missouri; & Wyandotte Co. Kansas; & remainder of Johnson Co., Kansas	9.96	.54	3%+.51	7%	.12
ELECTRICIANS (4 stories):					
ZONE 1					
Area bounded on the North by State Hwy. 92 in Platte & Clay Cos.; east by a straight line from intersection of State Hwys. 92 & 33 in Clay Co., intersection of U.S. Hwy 24 & State Hwy. 7 in Jackson Co.; south on State Hwy 7 to Pleasant Hill; south from Pleasant Hill due west to the Missouri-Kansas line; not including Pleasant Hill & Blue Springs	13.72	.54	3%+.51	.95	.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS CONTD:					
ZONE 2					
Remainder of Cass, Clay, Jackson & Platte Cos., Missouri:					
Electricians (electrical labor contract of 2000 man-hours & over)	13.72	.54	3%+.51	.95	.12
Electricians (electrical labor contracts does not exceed 2000 man-hours)	12.72	.54	3%+.51	.95	.12
ZONE 3					
Ray County, Missouri:					
Electricians (electrical labor contract of 2000 man-hours & over)	13.72	.54	3%+.51	.95	.12
Electricians (electrical labor contracts does not exceed 2000 man-hours)	12.12	.54	3%+.51	.95	.12
ELEVATOR CONSTRUCTORS	12.71	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.72	.61	.89	18.7%	.04
IRONWORKERS	11.60	.75	1.40	1.00	.05
LABORERS:					
Building Construction					
Zone 1 - Cass, Clay, Jackson & Platte Cos., Missouri; Johnson & Wyandotte Cos., Kansas					
GROUP I	9.65	.45	.40	.50	.10
GROUP II	9.80	.45	.40	.50	.10
GROUP III	9.95	.45	.40	.50	.10
Zone 2 - Ray Co., Missouri					
GROUP I	9.35	.45	.40	.50	.10
GROUP II	9.50	.45	.40	.50	.10
GROUP III	9.65	.45	.40	.50	.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)

GROUP II - Plumber laborers (conduit pipe, sewer work, drain tile and duct lines, digging and backfilling), power tool operators; pier hole diggers (over 10 ft.); vibrator; jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgia buggies (self-propelled) fork lift; hoseman; insulation man

GROUP III - Fork lift (masonry); brick tender; plaster tender; stonemasons tender; Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONTD):					
Site preparation & grading ZONE 3 - Johnson & Wyandotte Cos., Kansas; Site preparation, incidental paving & utilities Clay, Jackson, Platte & Ray Cos., Missouri					
GROUP I	9.65	.60	.60	.75	.10
GROUP II	9.80	.60	.60	.75	.10
GROUP III	9.95	.60	.60	.75	.10
GROUP IV	10.15	.60	.60	.75	.10
GROUP V	10.45	.60	.60	.75	.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Carpenter tenders; salamander tenders; dump man flagman; loading trucks under bins, hoppers and conveyors, track men and all other general laborers

GROUP II - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgia buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drain pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter tenders; puddlers (paving only)

LABORERS CLASSIFICATION DEFINITIONS CONT'D

GROUP III - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used

GROUP IV - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operator; manhole builders tenders and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels

GROUP V - Manhole builder (brick or block); dynamite and powder man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	12.55	.40			
MARBLE AND TILE SETTERS	12.65	5%	4.25%		
MARBLE AND TILE SETTERS' HELPERS	10.85				
PAINTERS:					
Brush, tapers and roller	11.03	.55	.70		.08
Spray	12.03	.55	.70		.08
PLASTERERS	13.10				
PIPEFITTERS	12.89	.67	1.50		.10
PLUMBERS	13.82	.97	1.15		.12
POWER EQUIPMENT OPERATORS:					
Building Construction (Zone 1)					
GROUP I	12.20	.75	1.00	.75	.10
GROUP II	11.85	.75	1.00	.75	.10
GROUP III	9.45	.75	1.00	.75	.10
GROUP IV	9.95	.75	1.00	.75	.10
GROUP V	10.20	.75	1.00	.75	.10
GROUP VI	12.45	.75	1.00	.75	.10
GROUP VII	12.70	.75	1.00	.75	.10
GROUP VIII	12.10	.75	1.00	.75	.10
GROUP IX	13.20	.75	1.00	.75	.10
GROUP X	12.70	.75	1.00	.75	.10
GROUP XI					
(a)	11.95	.75	1.00	.75	.10
(b)	11.70	.75	1.00	.75	.10
(c)	9.70	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS-Zone 1

GROUP 1 - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe, all types; barber-greene loader (similar type); blade-power, all types; boats-power; boilers (2); boring machines (all types); cableways; cherry pickers (all types); chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders - all types; mechanic and welder; mucking machine; orange peels; pumps - material all types; push cats; scoops all types; self-propelled rotary drill; shovel, power side boom; skimmer scoop; testhole machine; throttle man

GROUP II - Boilers (1); brooms - power operated (all types); chip spreader (front man); clef plant operator; compressors (1) 150' or over; concrete saws, self-propelled ; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser hoist, hoist, endless chain - power operated; hopper - power operated; hydra hammer (all types); lad-a-vator - similar type; rollers - all types; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 105 ft. or over not more than 20' apart; compressors-tandem (any sizes); compressors single, truck mounted; elevator; finishing machine

GROUP III - Oiler

GROUP IV - Fork lift-masonry; oiler drivers - all types

GROUP V - Tractors (except when hauling material) less than 50 h.p.; "a" frame trucks; form lift-all types & sizes (except masonry); mixers (with side loaders); pumps (with well points) dewatering systems, test or pressure pumps

GROUP VI - Clamshells, 80 ft. of boom or over (including jib); crane or rigs 80 ft. of boom or over (including jib); draglines 80 ft. of boom or over (including jib); piledrivers, 80 ft of boom or over (including jib)

GROUP VII - Crane or rigs, over 200 ft. of boom

GROUP VIII - Hoists each additional drum over 1 drum

GROUP IX - Master mechanic

GROUP X - Crane - tower or climbing

GROUP XI - Ready mixed concrete plants;

(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor operator

POWER EQUIPMENT OPERATORS CONTD)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Site preparation & grading Johnson & Wyandotte Cos., Kansas; Site preparation, Incidental paving & utilities, Clay, Jackson, Platte & Ray Cos., Missouri Zone 2					
GROUP I	11.90	.75	1.00	.75	.10
GROUP II	11.65	.75	1.00	.75	.10
GROUP III	10.95	.75	1.00	.75	.10
GROUP IV	9.45	.75	1.00	.75	.10
GROUP V	9.95	.75	1.00	.75	.10
GROUP VI	12.15	.75	1.00	.75	.10
GROUP VII	11.90	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders, maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2

GROUP II - A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; ship spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; [illegible] footer; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator

CLASSIFICATION DEFINITIONS CONTD:

POWER EQUIPMENT OPERATORS
GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman; rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; roller opr., other than dredge; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator -1
GROUP IV - Mechanic's helpers; oilers
GROUP V - Oiler driver, all types
GROUP VI - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over
GROUP VII - Hoists (each additional drum over 1 drum)

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers, flat, slate & tile; damproofers & waterproofers	11.60	.75	.75		.14
SHEET METAL WORKERS	12.83	.75	1.10		.08
SOFT FLOOR LAYERS	9.81	.50	.85	1.00	1%
SPRINKLER FITTERS	13.28	.75			
TERRAZZO WORKERS	12.31	5%	4.25%		
TRUCK DRIVERS:					
Building Construction: Zone 1					
GROUP I	10.975	.75	1.00		
GROUP II	11.05	.75	1.00		
GROUP III	11.175	.75	1.00		
GROUP IV	11.075	.75	1.00		
GROUP V	11.275	.75	1.00		
GROUP VI	11.175	.75	1.00		
GROUP VII	11.025	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 1

GROUP I - Flat beds; pick-ups; dump trucks, under 10 yds.

GROUP II - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers

GROUP III - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumpter, euclid, etc.); double bottom units (20 tons capacity and over)

GROUP IV - Distributor truck drivers and operators; oilers, greasers and mechanics' helpers

GROUP V - Mechanics

GROUP VI - Transit mix, 5 yds. and over

GROUP VII - Transit mix, under 5 yds.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (CONTD)					
Site preparation & grading Johnson and Wyandotte Cos., Kansas; Site preparation, Incidental paving & Utilities, Clay, Jackson, Platte & Ray Cos., Missouri					
Zone 2					
GROUP I	9.99	.75	1.25	.75	
GROUP II	10.19	.75	1.25	.75	
GROUP III	10.50	.75	1.25	.75	
GROUP IV	10.65	.75	1.25	.75	
GROUP V	9.765	.75	1.25	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS-Zone 2
GROUP I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle
GROUP II - Material trucks; tandem; two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers; single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half tracks; speedace; euclids and other similar excavating equipment
GROUP III - A-frame, lowboy, and boom truck driver
GROUP IV - Mechanics and welders
GROUP V - Mechanics' helpers, oilers and greasers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.

Note: Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (21 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri

COUNTIES: Jasper, McDonald and Newton

DECISION.: MO79-4081

DATE: Date of Publication

Supersedes Decision No. MO78-4098 dated October 6, 1978 in 43 FR 46464

DESCRIPTION OF WORK: Building Projects, (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	11.97	.50	1.00		.04
BOILERMAKERS	12.00	1.15	1.00		.02
BRICKLAYERS & STONEMASONS	10.85		.40		
CARPENTERS:					
Carpenters	9.72	.50	.30		
Millwrights & piledrivermen	9.97	.50	.30		
CEMENT MASONS	7.40				
ELECTRICIANS:					
Electricians	10.54	.65	3%+.75	5%	.01
Cable splicers	10.89	.65	3%+.75	5%	.01
ELEVATOR CONSTRUCTORS:					
Elevator constructors	12.71	.745	.56	3%+a	.025
Helpers	70%JR	.745	.56	3%+a	.025
Helpers probationary	50%JR				
GLAZIERS	8.05			.25	
IRONWORKERS	11.30	.75	.65		.12
LABORERS:					
Group 1	7.40	.60	.50		.10
Group 2	7.65	.60	.50		.10
Group 3	7.70	.60	.50		.10

LABORERS CLASSIFICATION DEFINITIONS

Group 1 - General laborers, carpenter tenders, trackmen, wreckers handling and carrying of reinforced steel

Group 2 - Pipelayers, (conduit pipe, sewer tile, drain tile, duct line w. mains), air tool operators, pier hole diggers (over 10'), vibrators, jackhammer, chipping hammer operator (air or electric), asphalt rakers, mastic kettlemen, sandblasting, gunnite nozzlemen, cutting torch & welders, barco, jackson or similar tamp operators, powderman

Group 3 - Plasterers and mason tenders

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	10.50				
LINE CONSTRUCTION:					
Linemen	12.67	.45	3%+.15		½%
Linemen operators	12.07	.45	3%+.15		½%
Groundman	8.10	.45	3%+.15		½%
Groundman, 1st 6 mos.	6.15	.45	3%+.15		½%
Groundman, powderman	8.78	.45	3%+.15		½%
PAINTERS:					
Brush, roller, tapers, floor tile & carpet layers, paperhangers	9.87		.45		
Spray	10.245		.45		
PLASTERERS	7.30				
PLUMBERS	11.115	.90	.85		.08
POWER EQUIPMENT OPERATORS:					
Group 1	10.48	.50	.75		
Group 2	10.00	.50	.75		
Group 3	9.40	.50	.75		
Group 4	8.80	.50	.75		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Crane; dragline; derrick; drum or tower hoist (2-drum); power shovel or back hoe (on tracks); piledriver; power blade, motor patrol; mechanic; hydraulic, self-propelled crane; stringer or cherry picker crane

Group 2 - Bulldozer; dirt scoop or pan; elevating grader; drum or tower hoist (1 drum); loader (track or rubber tire); tractor, pusher, roller (asphalt); tractor or back hoe (on rubber tires); tractor (compaction roller or pull blade track)

Group 3 - Fork lift; roller; industrial tractor; tractor (compaction roller or pull blade-rubber tire); distributor (bituminous); finishing machine (concrete paving); concrete saw (self-propelled); air compressor (600 cu. ft. or over); small machine (operator)

Group 4 - Oiler, oiler-driver

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	7.90	.46	.20		
SHEET METAL WORKERS	9.75	.82	.55		.04
STEAMFITTERS	11.48	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DIRVERS:					
Pickup or station wagon	7.15	.25			
Dump and under 5 tons, flat-bed, warehousemen	7.25	.25			
Transit mix	7.48	.25			
Tandem dump over 5 tons, winch, semi-trailer, lowboy, euclids or other similar equipment	7.52	.25			

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as vacation Pay Credit. Also 7 Paid Holidays.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR; 5.5 (a)(ii)."

SUPERSEDEAS DECISION

STATE: New Mexico COUNTY: Statewide
DECISION NO.: NM79-4079 DATE: Date of Publication
Supersedeas Decision No. NM79-4021 dated January 5, 1979 in 44 FR 1652
DESCRIPTION OF WORK: BUILDING AND HEAVY PROJECTS (also including RESIDENTIAL PROJECT in Santa Fe, Bernalillo, Rio Arriba, Taos, Sandoval and Valencia Counties).

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
(Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Cos.)	12.81	.50	1.37a		.06
Union, Harding, Lea, Roosevelt, Curry and Quay Cos.	10.00	.65	.55		.07
BOILERMAKERS	10.90	1.175	1.00	.75	.03
BRICKLAYERS-STONEMASONS:					
Zone I-A	10.91	.77	.50		.10
Zone I-B	12.16	.77	.50		.10
Zone I-C	13.16	.77	.50		.10
Zone II	11.01	.77	.50		.10
Zone III	12.01	.77	.50		.10
Zone IV	11.11	.67	.40		.10
Zone V	12.11	.67	.40		.10
Zone VI	10.41	.67	.40		.10
Zone VII	11.11	.67	.40		.10
Zone VIII	11.84	.77	.30		.10
Zone IX	10.59	.77	.30		.10

BRICKLAYERS' ZONE DEFINITIONS

ZONE I - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo and Los Alamos Counties
From basing point of Albuquerque Main Post Office:
Zone I-A - 0 to 25 road miles
Zone I-B - 25 to 50 road miles
Zone I-C - Over 50 road miles
ZONE II - Curry and Roosevelt Counties
ZONE III - DeBaca, Guadalupe and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VI - Lee and Eddy Counties
ZONE VII - Otero Counties
ZONE VIII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Hurley and new town site of Tyrone; Hidalgo and Sierra Counties
ZONE IX - Dona Ana County

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Dwelling houses & apartments not to exceed two stories in height:					
Zone I-A	7.50	1.00	1.15	.65	.20
Zone I-B	8.75	1.00	1.15	.65	.20
Zone I-C	9.50	1.00	1.15	.65	.20
General Building, Heavy & Residential Construction (Dwelling houses and apartments over two stories in height):					
Zone 2-A	11.05	1.10	1.15		.20
Zone 2-B	12.55	1.10	1.15		.20
Zone 2-C	13.30	1.10	1.15		.20

CARPENTERS' ZONE DEFINITIONS

CARPENTER (STATEWIDE) - From nearest basing points of the following cities of Towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, and Tucumcari:
ZONE I - Dwelling houses & apartments not to exceed two stories in height:
Zone I-A - 0 - 15 road miles from nearest basing point
Zone I-B - 15 to 35 road miles from nearest basing point
Zone I-C - Over 35 road miles from nearest basing poing
ZONE II - General Building & Heavy Construction & Residential Construction (Dwelling houses & apartments over two stories in height:
Zone 2-A - 0 - 15 road miles from nearest basing point
Zone 2-B - 15 to 35 road miles from nearest basing point
Zone 2-C - Over 35 road miles from nearest basing point

CARPENTERS - San Juan County Only					
Zone II	11.05	1.10	1.15		.20
Zone III	13.05	1.10	1.15		.20
	13.30	1.10	1.15		.20

SAN JUAN COUNTY ZONE DEFINITIONS FOR CARPENTERS

ZONE I - Within 15 road miles of the City of Farmington
ZONE II - More than 15 miles, but less than 35 miles from Farmington
ZONE III - 35 miles or more from the City of Farmington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASON:					
Area I	9.47	.77	.60		.20
Area II:					
Zone 1	9.47	.77	.60		.20
Zone 2	9.47	.77	.60		.20
Zone 3	10.97	.77	.60		.20
Cement masons (Residential)	6.00	.77	.60		.20
Cement masons (Heavy)	9.47	.77	.60		.20
CEMENT MASONS:					
Composition & Machine Oprs.:					
Area I	9.72	.77	.60		.20
Area II:					
Zone 1	9.72	.77	.60		.20
Zone 2	10.97	.77	.60		.20
Zone 3	11.22	.77	.60		.20

CEMENT MASONS AREA DEFINITIONS

AREA I - Statewide except Farmington, San Juan County

AREA II - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35 miles and over from Farmington City Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Zone I					
1-A	12.15	.60	3%+.70		½%
1-B	13.00	.60	3%+.70		½%
1-C	13.73	.60	3%+.70		½%
1-D	14.58	.60	3%+.70		½%
Zone II	13.73	.60	3%+.70		½%
Zone III					
3-A	9.60	.30	3%		1/10%
3-B	11.05	.30	3%		1/10%
Zone IV					
4-A	11.75	.60	3%		.01
4-B	12.10	.60	3%		.01
4-C	12.25	.60	3%		.01
4-D	12.50	.60	3%		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CABLE SPLICERS:					
Zone I					
1-A	13.37	.60	3%+.70		½%
1-B	14.22	.60	3%+.70		½%
1-C	14.95	.60	3%+.70		½%
1-D	15.80	.60	3%+.70		½%
Zone II	14.95	.60	3%+.70		½%
Zone III					
3-A	9.85	.30	3%		1/10%
3-B	11.30	.30	3%		1/10%
Zone IV					
4-A	12.10	.60	3%		.01
4-B	12.45	.60	3%		.01
4-C	12.60	.60	3%		.01
4-D	12.85	.60	3%		.01

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I
Area 1 - Bernalillo, Santa Fe, Torrance, DeBaca, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln and Roosevelt Counties
Area 1-A - From nearest basing point cities, towns and mileage from main post office in the following towns:
Albuquerque - 15 miles from main post office
Santa Fe - 15 miles from main post office
Las Vegas - 8 miles from main post office
Farmington - 8 miles from main post office
Raton - 6 miles from main post office
Tucumari - 6 miles from main post office
Aztec - 6 miles from main post office
Roswell - 12 miles from main post office
Ruidoso - 12 miles from main post office
Portales - 12 miles from main post office
Carrizozo - 12 miles from main post office
Clovis - 12 miles from main post office
Gallup - 10 miles from main post office
Pojoaque - 2 miles from main post office
*All areas adjacent to Pojoaque that are over two (2) miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE I CONTD:
Area 1-B - extending up to 20 miles beyond Area 1-A

Area 1-C - extending up to 30 miles from Area 1-A

Area 1-D - anything beyond 30 miles from Area 1-A
ZONE II - Los Alamos County
ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the post office in Las Cruces and within a 5 mile radius from the post office in Alamogordo.
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)
ZONE IV - Eddy and Lea Counties - the following zones shall be designated from the main post office in Artesia, Carlsbad, Hobbs and Lovington:
Zone 4-A - 0 -12 miles from main post office
Zone 4-B - 12 - 22 miles from main post office
Zone 4-C - 22 - 40 miles beyond main post office
Zone 4-D - 40 miles and beyond main post office

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Cos.:					
Elevator constructors	11.50	.545	.35	3%+b+c	.02
Elevator constructors helpers	70%JR	.545	.35	3%+b+c	.02
Elevator constructors, prob.	50%JR				
Chaves, Hidalgo, Dona Ana, Eddy, Grant, Lea, Luna, Otera and Sierra Cos.:					
Elevator constructors	8.68	.895	.69	4%+b+c	.035
Elevator constructors helper	70%JR	.895	.69	4%+b+c	.035
Elevator constructors, prob.	50%JR				
GLAZIERS	9.79	.70	.30		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
ZONE I	11.50	.65	1.25		.18
ZONE II					
Area 1	11.50	.65	1.25		.18
Area 2	12.75	.65	1.25		.18
Area 3	13.50	.65	1.25		.18
Area 4	13.75	.65	1.25		.18
ZONE III	10.55	.55	1.40		.15
ZONE IV	11.55	.55	1.40		.15

IRONWORKERS ZONE DEFINITIONS

ZONE I - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance, and Valencia Counties
ZONE II - Farmington, San Juan County
Area 1 - Shall extend a distance of 6 road miles inclusive beyond the City Hall
Area 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of area 1
Area 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of area 2
Area 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of area 3
Other areas not within Area 1, 2, 3, and 4 shall revert to the $15.00 oer day subsistence rate.
ZONE III - Dona Ana, county with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County, Eddy County except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 180, east of Carlsbad.
ZONE IV - Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero and Sierra Counties; also Potash Basin, White Sands and McGregor Missile Ranges.

LABORERS: BUILDING					
Group I	7.36	.63	.77		.10
Group II	7.66	.63	.77		.10
Group III	7.66	.63	.77		.10
Group IV	7.96	.63	.77		.10
Group V	8.11	.63	.77		.10

BUILDING LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Unskilled; building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators
GROUP II - Semi-skilled; air and power tool operator, asphalt rakers, demolition, gunite, rebound men, fog machine operator, power buggy operators, rodmen; sand blasterers (pot men), window washers, wagon, core and diamond drillers tenders; outside scaler, grade setter
GROUP III - Wagon core, diamond drillers
GROUP IV - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzlemen
GROUP V - Powdermen and blasterers

LABORERS (HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK)

ZONE I - Statewide including 15 miles from Farmington Hall
ZONE II - 15 to 35 miles from Farmington Hall
ZONE III - 35 miles and over from Farmington Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK)					
ZONE I					
Group 1	7.36	.63	.77		.10
Group 2	7.66	.63	.77		.10
Group 3	7.76	.63	.77		.10
Group 4	7.96	.63	.77		.10
Group 5	8.11	.63	.77		.10
ZONE II					
Group 1	7.86	.63	.77		.10
Group 2	8.16	.63	.77		.10
Group 3	8.26	.63	.77		.10
Group 4	8.46	.63	.77		.10
Group 5	8.61	.63	.77		.10
ZONE III					
Group 1	8.36	.63	.77		.10
Group 2	8.66	.63	.77		.10
Group 3	8.76	.63	.77		.10
Group 4	8.96	.63	.77		.10
Group 5	9.11	.63	.77		.10

LABORERS (HEAVY CONSTRUCTION, SITE PREPARATION AND DIRT WORK) CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Construction and general laborers, carpenter tenders, concrete workers, stakedrivers, concrete buggy operators
GROUP II - Semi-skilled - Air and power tool operators, asphalt rakers, cutting torch operators, demolition, gunite rebound men, rod and chainmen, grade setters, power buggy operators, sand blasters (pot men), nozzlemen, wagon core and diamond drillers' tenders, outside scalers, fog machine operators
GROUP III - Wagon core, diamond drillers
GROUP IV - Miscellaneous - concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzleman
GROUP V - Powdermen and blasters

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS RESIDENTIAL CONSTRUCTION					
Group I	5.02	.63	.77		.10
Group II	5.32	.63	.77		.10
Group III	5.42	.63	.77		.10
Group IV	5.62	.63	.77		.10

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators, hand
GROUP II - Semi-skilled - air and power tool operator, asphalt rakers, demolition, gunnite rebound men, fog machine operator, power buggy operator, rodmen, sand blasterers (pot men), window washers, wagon, core and diamond drillers, tender outside
GROUP III - Wagon core, diamond drillers
GROUP IV - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunnite nozzlemen, pipelayer, pumpcrete nozzlemen

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Zone I	11.29	.77			.06
Zone II	12.21	.77			.01
Zone III	8.98	.77			.01

LATHERS ZONE DEFINITIONS

ZONE I - Catron, Grant, Bernalillo, Roosevelt, Union, Sandoval, San Juan, Socorro, Torrance and Valencia Counties
ZONE II - Colfax, Los Alamos, Mora, Rio Arriba, San Miguel, Santa Fe and Taos Counties
ZONE III - Dona Ana and Otero Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEAD BURNERS					
Zone I	12.95	.68	1.42		.16
Zone II	13.45	.68	1.42		.16
Zone III	14.70	.68	1.42		.16
Zone IV	13.58	.68	1.42		.16

LEAD BURNERS BASING POINT & AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamorgordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lovington, Portales, Raton, Socorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth of Consequence
Zone I - Shall include a distance of seven road miles inclusive beyond the city or town limits
Zone II - Shall extend a distance of 4 road miles inclusive beyond the outer perimeter of area I.
Zone III- Shall apply to all areas not within 1 or 2, or not within the specific areas.
Zone IV (SPECIFIC AREA) - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds

COMMERCIAL LINE WORK

Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico

ZONE I
Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles
Santa Fe - 10 miles
Las Vegas - 8 miles
Farmington - 6 miles
Raton - 6 miles
Tucumcari - 6 miles
Aztec - 6 miles
Roswell - 12 miles
Ruidoso - 12 miles
Portales - 12 miles
Carrisoso - 12 miles
Clovis - 12 miles
Gallup - 12 miles
*Pojoaque - 2 miles

COMMERCIAL LINE WORK CONTD:

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond zone 1

ZONE III - Extending up to 30 miles beyond zone 1

ZONE IV - Anything beyond 30 miles from zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMMERCIAL LINE WORK					
ZONE I					
Linemen - technicians	12.15	.60	3%+.70		½%
Cable splicers	13.37	.60	3%+.70		½%
Equipment Operator (includes helicopter op.)	11.54	.60	3%+.70		½%
Equipment Operator (includes Helicopter mechanic)	10.57	.60	3%+.70		½%
Powderman	10.57	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	8.63	.60	3%+.70		½%
ZONE II					
Linemen - technicians	13.00	.60	3%+.70		½%
Cable splicers	14.22	.60	3%+.70		½%
Equipment Opr. (includes helicopter op.)	12.39	.60	3%+.70		½%
Equipment Opr. (includes Helicopter mechanic)	11.42	.60	3%+.70		½%
Powderman	11.42	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	9.48	.60	3%+.70		½%
ZONE III					
Linemen - technicians	13.73	.60	3%+.70		½%
Cable splicers	14.95	.60	3%+.70		½%
Equipment Opr. (includes helicopter op.)	13.73	.60	3%+.70		½%
Equipment Opr. (includes helicopter mechanic)	12.15	.60	3%+.70		½%
Powderman	12.15	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	10.21	.60	3%+.70		½%
ZONE IV					
Linemen - technicians	14.58	.60	3%+.70		½%
Cable splicers	15.80	.60	3%+.70		½%
Equipment Opr. (includes helicopter op.)	13.97	.60	3%+.70		½%
Equipment Opr. (includes helicopter mechanic)	13.00	.60	3%+.70		½%
Powderman	13.30	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	11.06	.60	3%+.70		½%

Las Alamos County - Use ZONE III rates.

COMMERCIAL LINE WORK
Applies to switching stations and substations adjacent to power plants in Zone 1 and zone 2 in Luna, Dona Ana, Otero and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico.

ZONE I
The area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within ten mile radius from the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico.

ZONE II
All other areas of the jurisdiction except those specified in zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE I					
Linemen - technicians	9.60	.30	3%		½%
Cable splicers	9.85	.30	3%		½%
Equipment opr. (includes helicopter opr.)	9.12	.30	3%		½%
Equipment opr. (includes helicopter mechanic)	8.40	.30	3%		½%
Powderman	8.40	.30	3%		½%
Groundman & Jackhammer Oprs.	6.82	.30	3%		½%
ZONE II					
Linemen - technicians	11.05	.30	3%		½%
Cable splicers	11.30	.30	3%		½%
Equipment Opr. (includes helicopter opr.)	10.50	.30	3%		½%
Equipment Opr. (includes helicopter mechanic)	9.67	.30	3%		½%
Powderman	9.67	.30	3%		½%
Groundman & Jackhammer Oprs.	7.85	.30	3%		½%

COMMERCIAL LINE WORK
Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs & Lovington.
Zone A - 0 - 12 miles
Zone B - 12 - 22 miles
Zone C - 22 to 40 miles
Zone D - 40 miles and beyond

COMMERCIAL LINE WORK CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE A					
Linemen - technician	11.35	.60	3%		½%
Cable splicers	11.70	.60	3%		½%
Equipment Opr. (includes helicopter opr.)	10.78	.60	3%		½%
Equipment Opr. (includes helicopter mechanic)	9.93	.60	3%		½%
Powderman	9.93	.60	3%		½%
Groundman & Jackhammer Oprs	8.06	.60	3%		½%
ZONE B					
Linemen - technician	11.70	.60	3%		½%
Cable splicers	12.05	.60	3%		½%
Equipment opr. (includes helicopter opr)	11.13	.60	3%		½%
Equipment opr. (includes helicopter mechanic)	10.28	.60	3%		½%
Powderman	10.28	.60	3%		½%
Groundman & Jackhammer Oprs.	8.41	.60	3%		½%
ZONE C					
Linemen - technician	11.85	.60	3%		½%
Cable splicers	12.20	.60	3%		½%
Equipment opr. (includes helicopter opr)	11.28	.60	3%		½%
Equipment opr. (includes helicopter mechanic)	10.43	.60	3%		½%
Powderman	10.43	.60	3%		½%
Groundman & Jackhammer Oprs.	8.56	.60	3%		½%
ZONE D					
Linemen - technician	12.10	.60	3%		½%
Cable splicers	12.45	.60	3%		½%
Equipment opr. (includes helicopter opr)	11.53	.60	3%		½%
Equipment opr. (includes helicopter mechanic)	11.68	.60	3%		½%
Powderman	11.60	.60	3%		½%
Groundman & Jackhammer Oprs.	8.81	.60	3%		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS	9.50	.77			
MARBLE, TILE & TERRAZZO FINISHERS	7.85	.77			
MILLWRIGHTS & PILEDRIVERMEN:					
Zone 1	11.80	1.10	1.15		.20
Zone 2	13.30	1.10	1.15		.20
Zone 3	14.05	1.10	1.15		.20

MILLWRIGHTS & PILEDRIVERMEN ZONE DEFINITIONS

BASING POINT - FROM ALBUQUERQUE CITY LIMITS:
Zone 1 - 0 to 15 road miles from basing point
Zone 2 - 15 to 35 road miles from basing point
Zone 3 - Over 35 road miles from basing point

PAINTRES: ZONE I					
Class 1-A	9.47	.70	.40		.05
Class 1-B	9.97	.70	.40		.05
Class 1-C	9.72	.70	.40		.05
Class 1-D	10.05	.70	.40		.05
Class 1-E	9.80	.70	.40		.05
ZONE II:					
Class 2-A	8.60	.70	.40		.05
Class 2-B	8.82	.70	.40		.05
Class 2-C	9.25	.70	.40		.05
Class 2-D	8.70	.70	.40		.05
Class 2-E	9.35	.70	.40		.05
Class 2-F	8.60	.70	.40		.05
Class 2-G	9.10	.70	.40		.05
ZONE II (RESIDENTIAL)					
Brush & rollers	8.60	.70	.40		.05
Spray & sandblast	9.25	.70	.40		.05
Paperhangers	8.82	.70	.40		.05
Vinyl hangers	8.70	.70	.40		.05
ZONE III					
Class 3-A	8.23	.68			.02
Class 3-B	8.65	.68			.02
Class 3-C	8.375	.68			.02
Class 3-D	9.08	.68			.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS' CONTD:					
ZONE IV					
Class 4-A	7.12	.35	.20		.05
Class 4-B	7.62	.35	.20		.05
Class 4-C	7.37	.35	.20		.05
Class 4-D	7.22	.35	.20		.05
Class 4-E	7.70	.35	.20		.05
Class 4-F	7.45	.35	.20		.05

PAINTERS' ZONE AND CLASSIFICATION DEFINITIONS

ZONE I - San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron, Socorro, Lincoln, DeBaca, Roosevelt, Chaves, Valencia, Sierra, Grant, Hidalgo, Curry, Lea and Eddy Counties, New Mexico.
- Class A - Painters, roller and hand textures
- Class B - Painters, spray, sandblasting, painter on steel bridges, tanks towers, pipe and structural
- Class C - Paperhanger
- Class D - Drywall finisher; ames tool operator
- Class E - Hand finisher machine texture

ZONE II - Colfax, Hardin, Los Alamos, Mora, Sandoval, San Miguel, Rio Arriba, Taos, Union and Santa Fe Counties
- Class A - Painters and roller
- Class B - Paperhangers
- Class C - Spray, sandblast, steel, special coating applicator
- Class D - Vinyl hangers
- Class E - Drywall finisher tool and machine texture
- Class F - Hand texture
- Class G - Hand finisher

ZONE III - Luna, Otero and Dona Ana Counties
- Class A - Brush, paperhangers
- Class B - Spray, sandblasting, swing stage, stripping machine
- Class C - Ames tool and steel brush after erection
- Class D - Radio towers, water tanks smoke stake 70 - 100 ft.

ZONE IV - Residential Construction in Santa Fe, Sandoval, Rio Arriba & Taos Counties
- Class A - Brush and roller
- Class B - Spray, parking lot stripping
- Class C - Paperhangers
- Class D - Vinyl hangers
- Class E - Drywall finishers - ames tool op., machine texture
- Class F - Drywall finishers - hand finisher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Statewide, except Otero, Grant, Sierra, Dona Ana, & Hidalgo Counties	10.66	.77	.60		.06
Otero, Grant, Sierra, Dona Ana, Luna and Hidalgo Counties	8.48	.77	.25		.01
PLUMBERS-PIPEFITTERS:					
Area I	12.45	.68	1.42		.16
Area II	12.95	.68	1.42		.16
Area III	14.20	.68	1.42		.16
Specific area	13.08	.68	1.42		.16
Residential	7.75	.68	.25		.16

PLUMBERS - PIPEFITTERS' ZONES DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari, Truth of Consequence and Socorro, New Mexico

Area I - Shall include a distance of seven road miles inclusive beyond the city or town limits.

Area II - Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.

Area III - Shall apply to all areas not within areas 1 or 2, or not within the specific area.

Specific Area - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Oro Grande Range Camp and Dona Ana and Otero Counties

POWER EQUIPMENT OPERATORS AREA DEFINITIONS:
AREA I - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15 - 35 miles from Farmington City Hall
Zone III - 35-50 miles from Farmington City Hall
AREA II - Statewide, except San Juan County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
AREA I (RESIDENTIAL & BUILDING CONSTRUCTION)					
ZONE I					
Group 1	8.68	.70	.60		.15
Group 2	9.57	.70	.60		.15
Group 3	9.65	.70	.60		.15
Group 4	9.71	.70	.60		.15
Group 5	9.77	.70	.60		.15
Group 6	9.87	.70	.60		.15
Group 7	9.97	.70	.60		.15
Group 8	10.70	.70	.60		.15
ZONE II					
Group 1	10.43	.70	.60		.15
Group 2	11.32	.70	.60		.15
Group 3	11.40	.70	.60		.15
Group 4	11.46	.70	.60		.15
Group 5	11.52	.70	.60		.15
Group 6	11.62	.70	.60		.15
Group 7	11.72	.70	.60		.15
Group 8	12.45	.70	.60		.15
ZONE III					
Group 1	10.68	.70	.60		.15
Group 2	11.57	.70	.60		.15
Group 3	11.65	.70	.60		.15
Group 4	11.71	.70	.60		.15
Group 5	11.77	.70	.60		.15
Group 6	11.87	.70	.60		.15
Group 7	11.97	.70	.60		.15
Group 8	12.70	.70	.60		.15
AREA II (RESIDENTIAL & GENERAL BUILDING CONSTRUCTION)					
Group 1	8.68	.70	.60		.15
Group 2	9.57	.70	.60		.15
Group 3	9.65	.70	.60		.15
Group 4	9.71	.70	.60		.15
Group 5	9.77	.70	.60		.15
Group 6	9.87	.70	.60		.15
Group 7	9.97	.70	.60		.15
Group 8	10.70	.70	.60		.15

HEAVY CONSTRUCTION (POWER EQUIPMENT OPERATORS AREA DEFINITIONS)

AREA I - Statewide, except San Juan County
Basing points for zone pay shall be determined from the Center of the following cities - Albuquerque, Carlsbad, Gallup, Raton & Las Cruces
Zone I - 0 - 50 miles
Zone II - Over 50 miles
AREA II - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15 to 35 miles from Farmington City Hall
Zone III - Over 35 miles from Farmington City Hall

	Basic Hourly Rates	Fringe Benefits Payments			
HEAVY CONSTRUCTION (AREA I):		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I					
Zone 1	8.63	.75	.60		.15
Zone 2	9.88	.75	.60		.15
GROUP II					
Zone 1	9.47	.75	.60		.15
Zone 2	10.72	.75	.60		.15
GROUP III					
Zone 1	9.55	.75	.60		.15
Zone 2	10.80	.75	.60		.15
GROUP IV					
Zone 1	9.61	.75	.60		.15
Zone 2	10.86	.75	.60		.15
GROUP V					
Zone 1	9.67	.75	.60		.15
Zone 2	10.92	.75	.60		.15
GROUP VI					
Zone 1	9.77	.75	.60		.15
Zone 2	11.02	.75	.60		.15
GROUP VII					
Zone 1	9.87	.75	.60		.15
Zone 2	11.12	.75	.60		.15
GROUP VIII					
Zone 1	10.55	.75	.60		.15
Zone 2	11.80	.75	.60		.15
(HEAVY CONSTRUCTION) POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION (AREA II)					
GROUP I					
Zone 1	8.63	.75	.60		.15
Zone 2	9.88	.75	.60		.15
Zone 3	10.13	.75	.60		.15
GROUP II					
Zone 1	9.47	.75	.60		.15
Zone 2	10.72	.75	.60		.15
Zone 3	10.97	.75	.60		.15
GROUP III					
Zone 1	9.55	.75	.60		.15
Zone 2	10.80	.75	.60		.15
Zone 3	11.05	.75	.60		.15

	Basic Hourly Rates	Fringe Benefits Payments			
HEAVY CONSTRUCTION AREA II CONTD:		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP IV					
Zone 1	9.61	.75	.60		.15
Zone 2	10.86	.75	.60		.15
Zone 3	11.11	.75	.60		.15
GROUP V					
Zone 1	9.67	.75	.60		.15
Zone 2	10.92	.75	.60		.15
Zone 3	11.17	.75	.60		.15
GROUP VI					
Zone 1	9.77	.75	.60		.15
Zone 2	11.02	.75	.60		.15
Zone 3	11.27	.75	.60		.15
GROUP VII					
Zone 1	9.87	.75	.60		.15
Zone 2	11.12	.75	.60		.15
Zone 3	11.37	.75	.60		.15
GROUP VIII					
Zone 1	10.55	.75	.60		.15
Zone 2	11.80	.75	.60		.15
Zone 3	12.05	.75	.60		.15

POWER EQUIPMENT OPERATORS AREA DEFINITIONS
AREA I - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35-50 miles from Farmington City Hall
AREA II - Statewide, except San Juan County

	Basic Hourly Rates	Fringe Benefits Payments			
AREA I (SITE PREPARATION & DIRT WORK)		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE I					
Group 1	8.68	.75	.60		.15
Group 2	9.57	.75	.60		.15
Group 3	9.65	.75	.60		.15
Group 4	9.71	.75	.60		.15
Group 5	9.77	.75	.60		.15
Group 6	9.87	.75	.60		.15
Group 7	9.97	.75	.60		.1
Group 8	10.70	.75	.60		.1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I (SITE PREPARATION & DIRT WORK CONTD:)					
ZONE II					
Group 1	10.43	.75	.60		.15
Group 2	11.32	.75	.60		.15
Group 3	11.40	.75	.60		.15
Group 4	11.46	.75	.60		.15
Group 5	11.52	.75	.60		.15
Group 6	11.62	.75	.60		.15
Group 7	11.72	.75	.60		.15
Group 8	12.45	.75	.60		.15
ZONE III					
Group 1	10.68	.75	.60		.15
Group 2	11.57	.75	.60		.15
Group 3	11.65	.75	.60		.15
Group 4	11.71	.75	.60		.15
Group 5	11.77	.75	.60		.15
Group 6	11.87	.75	.60		.15
Group 7	11.97	.75	.60		.15
Group 8	12.70	.75	.60		.15
AREA II (SITE PREPARATION & DIRT WORK)					
Group 1	8.68	.75	.60		.15
Group 2	9.57	.75	.60		.15
Group 3	9.65	.75	.60		.15
Group 4	9.71	.75	.60		.15
Group 5	9.77	.75	.60		.15
Group 6	9.87	.75	.60		.15
Group 7	9.97	.75	.60		.15
Group 8	10.70	.75	.60		.15

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
BUILDING, RESIDENTIAL, HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK

GROUP I - Fireman, oiler, screedman, scale operator such as bin-a batch, rubber tired farm type tractor, tractors under 50 HP without attachments, breakman, concrete paving curing machine (bridge-type), helper; (mechanic, welder, grease truck)

GROUP II - Rollers, sheepsfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM & over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loader: forklift, lumber stacker, tractor farm type (under 50 HP with attachments) motorman and industrial locomotive operator, winch truck, front end loaders, (under 2 CY), power plants which generate over 15 KW, welding machines

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONTD:
BUILDING, RESIDENTIAL, HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK

GROUP III - Bituminous distributors, boilers, retort and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment, motor grades (rough), shaft and tunnel equipment; (refrigeration, slusher, jumbo forms), trenching machines (all types), pump crete and gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, concrete slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants

GROUP IV - Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldozers, scrapers (motor or towed), elevating graders, concrete batching plants, self-propelled rollers -- equipped with dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (60¢ over basic rate)

GROUP V - Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoists, auto fine grader

GROUP VI - Mucking machines - all types, motor grader (finish) mechanic - welder

GROUP VII - Steam engineers, loader (front end over 10 CY), concrete pump (snorkel type)

GROUP VIII - All shovel type equipment: cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, hydraulic cranes (20 tons & over), mine hoist, belt loader ("C.M.I." Type), booms & jibs 150 ft. through 199 ft. - 25¢ per hour above base pay. 200 ft.and over - 50¢ per hour above base pay. Shovel (wheel type), boring machine (tunnel or shaft mole), pipe mobile

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (BLDG. CONST)	9.10	.50			
ROOFERS (RESIDENTIAL CONST)	7.90	.50			
SHEET METAL WORKERS:					
Zone 1	10.87	.53	1.00		.12
Zone 2	9.62	3%+.51	.385		.04
Zone 3	8.35	.20			.05
Zone 4	11.87	.53	1.00		.12

SHEET METAL WORKERS ZONE DEFINITIONS

Zone 1 - Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Socorro, Union, Taos, Torrance, Valencia, San Juan Counties, Kirtland Air Force Base.

Zone 2 - Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties

Zone 3 - Holloman Air Force Base, White Sands and McGregor Ranges

Zone 4 - Los Alamos County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	11.71	.75	1.05		.08
SOFT FLOOR LAYERS:					
Zone 1	8.50	.38	.10		.02
Zone 2	9.20	.70	.50		.04

SOFT FLOOR LAYERS' ZONE DEFINITIONS

Zone 1 - Dona Ana, Luna and Otero Counties
Zone 2 - Statewide (excluding Dona Ana, Lune and Otero Counties

SOUND INSTALLERS:					
SOUNDMAN					
Zone 1	10.35	.60	3%		½%
Zone 2	11.64	.60	3%		½%
Zone 3	14.23	.60	3%		½%
TECHNICIANS					
Zone 1	8.28	.60	3%		½%
Zone 2	9.57	.60	3%		½%
Zone 3	12.16	.60	3%		½%
SOUND INSTALLERS					
Zone 1	6.73	.60	3%		½%
Zone 2	8.02	.60	3%		½%
Zone 3	10.61	.60	3%		½%

SOUND INSTALLERS ZONE DEFINITIONS

ZONE I - Thirty mile radius of main post office in Albuquerque
ZONE II - Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased to twelve and one-half (12½) percent of journeyman rate of pay for Zone I.
ZONE III - Chaves, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Counties, the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for Zone I.

TRUCK DRIVERS ZONE PAY BASING POINTS AND DEFINITIONS LISTED BELOW FOR BUILDING AND HEAVY CONSTRUCTION.

BASING POINTS ARE AS FOLLOWS:
Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, La Cruces, Las Vegas, Lordsburg, Los Alamos, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, Tucumcari

ZONE I - Shall be jobs or projects within 15 road miles from the starting points listed above.
ZONE II - Shall be jobs or projects which are more than fifteen road miles, but less than thirty-five road miles from base points.
ZONE III - Shall be those jobs or projects which are thirty-five road miles or more from the base points.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION:					
TRUCK DRIVERS (ZONE I)					
Group 1	7.51	.77	.77		
Group 2	7.63	.77	.77		
Group 3	7.71	.77	.77		
Group 4	7.83	.77	.77		
Group 5	7.88	.77	.77		
Group 6	7.98	.77	.77		
Group 7	8.08	.77	.77		
Group 8	8.22	.77	.77		
Group 9	8.37	.77	.77		
TRUCK DRIVERS (ZONE II)					
Group 1	8.76	.77	.77		
Group 2	8.88	.77	.77		
Group 3	8.96	.77	.77		
Group 4	9.08	.77	.77		
Group 5	9.13	.77	.77		
Group 6	9.23	.77	.77		
Group 7	9.33	.77	.77		
Group 8	9.47	.77	.77		
Group 9	9.62	.77	.77		
TRUCK DRIVERS (ZONE III)					
Group 1	9.26	.77	.77		
Group 2	9.38	.77	.77		
Group 3	9.46	.77	.77		
Group 4	9.58	.77	.77		
Group 5	9.63	.77	.77		
Group 6	9.73	.77	.77		
Group 7	9.83	.77	.77		
[illegible]	9.97	.77	.77		
Group 9	10.12	.77	.77		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
RESIDENTIAL CONSTRUCTION:					
TRUCK DRIVERS					
Group 1	7.21	.77	.77		
Group 2	7.33	.77	.77		
Group 3	7.41	.77	.77		
Group 4	7.53	.77	.77		
Group 5	7.58	.77	.77		
Group 6	7.68	.77	.77		
Group 7	7.78	.77	.77		
Group 8	7.92	.77	.77		
Group 9	8.07	.77	.77		
HEAVY CONSTRUCTION:					
TRUCK DRIVERS (ZONE I)					
Group 1	7.66	.77	.77		
Group 2	7.78	.77	.77		
Group 3	7.86	.77	.77		
Group 4	7.98	.77	.77		
Group 5	8.03	.77	.77		
Group 6	8.13	.77	.77		
Group 7	8.23	.77	.77		
Group 8	8.37	.77	.77		
Group 9	8.52	.77	.77		
TRUCK DRIVERS (ZONE II)					
Group 1	8.66	.77	.77		
Group 2	8.78	.77	.77		
Group 3	8.86	.77	.77		
Group 4	8.97	.77	.77		
Group 5	9.03	.77	.77		
Group 6	9.13	.77	.77		
Group 7	9.23	.77	.77		
Group 8	9.37	.77	.77		
Group 9	9.52	.77	.77		
TRUCK DRIVERS (ZONE III)					
Group 1	8.91	.77	.77		
Group 2	9.03	.77	.77		
Group 3	9.11	.77	.77		
Group 4	9.23	.77	.77		
Group 5	9.28	.77	.77		
Group 6	9.38	.77	.77		
Group 7	9.48	.77	.77		
Group 8	9.62	.77	.77		
Group 9	9.77	.77	.77		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, RESIDENTIAL CONSTRUCTION)

GROUP I - Pickup 3/4 ton and under, service station, including lubrication, light tire repair and washer, swamper or riding helper, 2 or 4 up

GROUP II- Bus or taxi driver, dump or batch truck under 8 C.Y.W.L.C.: flat bed (bobtail) 2 ton and under; mechanic and welder helper; fork lift under 5 tons MRC.

GROUP III - Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons

GROUP IV - Distributor driver; heavy tire repairman; lumber carrier driver; young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail driver (flat-bed or van single axle); forklifts 5 ton and over MRC: field equipment servicemen

GROUP V - Dumpsters and dumpcrete driver; water, fuel or oil truck 3,000 to 6,000 gal; lowboys and light equipment driver; euclid type tank wagon under 6,000 gal.

GROUP VI - Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.: head field equipment servicement

GROUP VIII - Euclid diesel power turnarocker; terra coba-DW20-LeTourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gal. and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all

GROUP IX - Lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender men)

HEAVY CONSTRUCTION TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Pickup 3/4 to and under, service station, lubrication, light tire repair or washer, swamper or riding helper, teamster 2 or 4 up

GROUP II - Bus or taxi driver, dump or batch truck, under 8 C.Y.W.L.C. flatbed (bobtail) 2 ton and under, warehouseman including material checker, cardex man, expeditor, mechanic and welder helper, forklift under 5 ton M.R.C.

GROUP III - Dump trucks (including all highway & off-highway) 8 up to 16 C.Y.W.L.C., water,fuel or oil trucks less than 3,000 gals., flatbed (bobtail) over 2 tons

GROUP IV - Distributor driver, heavy tire repair, lumber carrier driver, yound buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C., field equipment servicemen

GROUP V - Dumpster and dumpcrete driver, water, fuel or oil truck, 3,000 to 6,000 gals., capacity, lowboy, light equipment driver, euclid type tank wagon under 6,000 gallons

GROUP VI - Vacuum truck, dump trucks (including all highway & off-highway) 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver, flaherty truck type spreader box driver, slurry truck driver, bulk cement driver, semi-doubles, 4 axle bobtail, winch truck & "A" frame, dump trucks (including all highway and off-highway) 22 C.Y. up to 35 C.Y.W.L.C. head field equipment servicemen

GROUP VIII - Euclid diesel powered turnarocker, terra cobra, DW 10, DW 20, LeTourneau pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster, lowboy heavy equipment driver, water, fuel or oil truck 6,000 gallons and over (including tank wagon drivers), semi-trailer driver (flatbed or van tandems) light equipment mechanic, dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over, truck and trailer or semi-trailer (flatbed), ejectall

GROUP IX - Lowboy (heavy equipment, double gooseneck), heavy equipment mechanic, welder (body and fender man)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

FOOTNOTES:
a - Includes $.07 contribution to the Occupational Health Fund
b - 1st 6 months - none; 6 months to 5 years, 6%; over 5 years, 8% of basic hourly rate.
c - Holidays A through G

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii)."

SUPERSEDEA DECISION

STATE: NEW YORK COUNTY: ORANGE
DECISION NO.: NY79-3028 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY77-3120 dated September 9, 197[illegible]
42 FR 45064
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.77	.8617	1.7233		
BOILERMAKERS	13.19	5%	15%	7%	.02
BRICKLAYERS:					
All that portion bounded on the east by the Hudson River to Woodbury Twp. line south of Bear Mt., thence along this line to a point south of Lake Mombasha, thence due west to the Lehigh-Hudson River R.R. line, thence northerly along this R.R. line to Maybrook, then northerly along the Penn Central R.R. line to the Ulster County line and along this line easterly to the starting point, the Hudson River. All that portion lying within these boundaries including the towns on the East side of the above named R.R. lines:					
Bricklayers, Cement Masons, Plasterers and Stonemasons:					
(Building)	9.95	1.10	1.10		
(Heavy and Highway)	10.20	1.10	1.10	a	
Starting at the junction of Ulster County, Sullivan County, and Orange County, along Ulster County line, southeast to the New York, New Haven and Hartford R.R. line to a point south of Wisner, thence east to the top of the Bellvale Mt. Range, thence southerly to the New Jersey State line, including the Towns of Warwick, New Milford & Bellvale:					
Bricklayers, Cement Masons, Plasterers and Stonemasons:					
(Building)	10.00	.83	1.53		
(Heavy and Highway)	10.25	.83	1.53	a	
CARPENTERS:					
Carpenters, Bridge, Dock and Wharf carpenters: Twps. of Tuxedo, Woodbury, Part of Cornwall, Monroe, Chester, Blooming Grove and Highlands	10.80	1.20	.60	1.45+b	.15
Carpenters, Piledrivermen and Dock Builders:					
Remainder of County	10.75	.75	1.05	.55	.05
ELECTRICIANS:					
Twps. of Otisville, Middletown, Goshen, Florida, Warwick, Port Jervis, Sparrow Bush, Monroe, Harman, Southfield, Tuxedo Lake and Tuxedo:	10.50	8%	19%	10%	1%
Remainder of County:	11.45	7.4%	3%+1.00		½%
Remainder of County: For the repair, renovation, alteration and new installation of electrical systems in light commercial and industrial property, herein defined to include stores, gas stations, motels and hotels	6.35	.75	1%	.30	
ELEVATOR CONSTRUCTORS	11.32	.745	.35+e	b+d	.02
ELEVATOR CONSTRUCTORS [illegible]	8.44	.745	.35+e	b+d	.02
ELEVATOR CONSTRUCTORS HELPERS (PROBATION)	5.66				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS MODERNIZATION	9.35	.495	.32+c	b+d	.02
ELEVATOR CONSTRUCTORS MODERNIZATION HELPERS	7.01	.495	.32+c	b+d	.02
ELEVATOR CONSTRUCTOR REPAIR	8.50	.495	.32+c	b+d	.02
ELEVATOR CONSTRUCTOR REPAIR HELPER	6.38	.495	.32+c	b+d	.02
GLAZIERS	12.85	.66	1.91	.67	.01
IRONWORKERS: Reinforcing, Ornamental, and Structural	10.75	1.78	2.98	1.60	
LABORERS: BUILDING Common Laborers, Mason Tenders, Mortar Mixers, Hod Carriers, Scaffold Builders, Concrete men, Vibrator men, poured gypsun, Roof work, wrecking Walking Power Buggy men, Landscaper, Chipping Hammer (air or electric 1" and under)	9.60	1.05	1.05	e	
Asphalt men, Pipelayers, Air or Electric Jackhammer, Powdermen, Gunnite, Sandblasting, Air Trac, Barmen, Chain Saw, Riding Power Buggy, Vibro, Barco, Joy Tamper or similar, Joy or Jib Drills, Walk Behind Roller, Wagon Drill, All Fork Lifts	9.85	1.05	1.05		
Grade, Pipe, Concrete Clearing, Black Top, Drill, Paving etc., Blaster, Form Setter, Burner (acetylene torch), Ingersoll-Rand, Heavy Duty Crawler Type HCM?, Drill Machines or [illegible], All wrecking work forty feet or more above grade	10.25	1.05	1.05		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	9.57	1.05	.15	1.00	.01
LEADBURNERS	10.75	.40	.25	f	.01
LINE CONSTRUCTION: Linemen cable splicer					
helper & material man	12.45	1.00	3%+.75	g	3½%
Groundman digging machine operator	11.205	1.00	3%+.75	g	3½%
Groundman mobile equipment operator	9.96	1.00	3%+.75	g	3½%
Groundman truck driver and mechanic	9.96	1.00	3%+.75	g	3½%
Groundman dynamite man	11.205	1.00	3%+.75	g	3½%
Cable splicer	13.695	1.00	3%+.75	g	3½%
MARBLE SETTERS, TERRAZZO WORKERS AND TILE SETTERS: West Newburgh, Little Britain, Rock tavern, Lagrange, New Hampton, Ridgeburg & Johnson to County Line and all areas inclusive south thereof County lines:					
Marble setters, cutters	10.25	1.21	1.71	h	
Marble setters' helpers	8.50	1.05		1.15	
Terrazzo workers	11.18	1.21	1.50		
Terrazzo workers' helpers	9.48	1.21	1.50		
Terrazzo machine operator	7.68	.475	.475		
Tile setters	10.95	1.15	.75		
Tile setters' helpers	7.90	.50	1.27		
That area in Orange County following within a 50 mile radius from Columbus Circle, NYC. (Arced boundary line is just south of Newburgh; South of Maybrook; North of Goshen, South of Middletown; North of Johnson; North of Unionville					
Marble setter helpers	9.65	1.85		i	
Tile setter helper	9.05	1.85		i	
Terrazzo helper	9.65	1.85		i	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Commercial	9.10	10%	.50		
Spray and Sandblasting Steel, Smoke Stacks, Bridges, Power Plants, Radio Towers	10.10	10%	.50		
Epoxy and other toxic materials	10.10	10%	.50		
PLUMBERS AND STEAMFITTERS: Twps., Villages and Hamlets and/or portions thereof: Lakeville, Four Corners, Sterling Forest, Tuxedo, Tuxedo Park, Southfield, Arden, Newburgh Junction, Greenwood Lake, Monroe, Harriman, Woodbury Falls, Woodbury Station, Central Valley, and the Palisades Interstate Park and Bear Mountain Park	9.74	2.03	1.56	1.17	.10
Remainder of County	11.75	1.10	1.90		.15
ROOFERS:					
Pitch, Pitch built up	11.70	1.00	1.95	j	.3
Asphalt Shingle	8.70	1.00	1.95	j	.35
Asbestos, Slate and Tile, Slab, and asphalt Builtup	11.20	1.00	1.95	j	.35
SHEET METAL WORKERS	10.97	1.645	1.82+47	1.04	.12
SOFT FLOOR LAYERS	11.15	1.40	1.78	.70+k	.02
SPRINKLER FITTERS	12.31	.75	1.05		.08
WELDERS - RECEIVE RATE PRESCRIBED FOR CRAFT PERFORMING OPERATION TO WHICH WELDING IS INCIDENTAL.					

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Armistice Day, Columbus Day and Election Day.

b. In the event of a death in the family of the member of the unit he shall be paid 3 days wages, family means husband, wife, mother, father, sister, brother or children. Wages are only paid on the condition that the member of the unit attends the funeral of the deceased.

c. Employee contributes $7.00 per day to Annuity Fund.

d. Employee contributes 6.4% of basic hourly rate for 5 years or more service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

e. Election day shall be observed in accordance with New York State Law.

f. Holidays: A through F; Washington's Birthday; X-Mas Eve; and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

g. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

h. Holidays: New Year's Eve & X-Mas Eve.

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FOOTNOTES CONT'D):

i. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day, providing employee works any one of three days preceeding or following the holiday.

j. Two hours off with pay on General Election Day, provided the employee has received 4 hours pay that day.

k. Employees employed on the last legal working day before Christmas Day and New Year's Day, and who report to work on such days, shall receive 3 hours pay.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as porvided in the labor standards contract clauses (29 CFR,5.5 (a)(1)(ii))."

DECISION NO. NY79-3028	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY CONSTRUCTION LABORERS:					
GROUP I	9.70	1.05	1.05	a	
GROUP II	9.95	1.05	1.05	a	
GROUP III	10.40	1.05	1.05	a	

HEAVY AND HIGHWAY CONSTRUCTION

GROUP I
Laborers, pitman, chuck tender, dump men, placing and maintenance of all flares, lights, barracades and all reflective type materials for traffic control

GROUP II
Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power buggy op., gunnite and sandblasting, coal passers and other machine op., sprayer and nozzle men on mulching and seeding machines, all seeding and sod laying, all landscape work, grade checkers, all bridge work, walk behind self-propelled power saw walk behind rollers and tampers of all types, wrecking laborers (including barmen and burnermen), sheeting and shoring laborers, bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent signal man

GROUP III
Concrete finisher on highways, form setter, granite stone layer, ingersoll rand heavy duty crawler - master type HOMZ or equivalent or any drill using a 4" or larger bit

FOOTNOTE:
a. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Lincoln's Birthday; Washington's Birthday; Columbus Day; Election Day; Veteran's Day; provided employee works one day in the calendar week in which the holiday falls and reports for work the first working day following the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION:					
GROUP 1	15.63	12%+.40	10%	a	3%
GROUP 2	13.81	12%+.40	10%	a	3%
GROUP 3	12.93	12%+.40	10%	a	3%
GROUP 4	12.82	12%+.40	10%	a	3%
GROUP 5	12.59	12%+.40	10%	a	3%
GROUP 6	12.10	12%+.40	10%	a	3%
GROUP 7	11.81	12%+.40	10%	a	3%
GROUP 8	11.64	12%+.40	10%	a	3%
GROUP 9	11.59	12%+.40	10%	a	3%
GROUP 10	11.64	12%+.40	10%	a	3%
GROUP 11	11.42	12%+.40	10%	a	3%
GROUP 12	11.59	12%+.40	10%	a	3%
GROUP 13	10.78	12%+.40	10%	a	3%
GROUP 14	10.61	12%+.40	10%	a	3%
GROUP 15	10.27	12%+.40	10%	a	3%

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION

GROUP 1
Helicopters pilot/engineer

GROUP 2
Autograde-combination subgrader, base MTL spreader & base trimmer (CMI & similar type); autograde placer-trimmer-spreader-combination (CMI & similar types); autograde slip form paver (CMI & similar types); back hoes (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types, including overhead & straddle travelling type); cranes, gantry; derricks- land or floating (building & heavy construction rate only), drill master, quarry master (down the hole drill); draglines; elevator graders; engines, large diesel (1625 HP) and staging pump; front end loaders (5 yds & over); gradalls; grader, rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); mucking machines; pavers (21E and over); paver, Tesinous, Broyhill; pavement and concrete breaker (i.e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treechopper with boom; trench machines

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 3
Pump, staging

GROUP 4
A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, shipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete, squeezecrete & similar types; equipment); forklifts; front end loaders (2 yds but less than 5 yds); groove cutting machines (ride or type); heater planer; hoist (Chicago Boom); Pans, LeTourneau, DW's Ukes, pumpcrete machines, squeezecrete & concrete pumping; scrapers-LeTourneau, Dw's Ukes; side booms; squeezecrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting)

GROUP 5
Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists

GROUP 6
Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-backtop

GROUP 7
Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (CMI & similar types); autograde concrete machine (CMI & similar types); autograde curb trimmer & sidewalk shoulder, slipform (CMI & similar types); barbending machines (power); batchers, batching plant & crusher on site; bet convey or system; boilers and steam jennies (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-hetzel, recomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft., [illegible] machines; ditching machine, small (Ditch witch or

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 7 (CONT'D)
similar); drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (1 yd & over but less than 2 yds) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds) - building and heavy construction rates only; generators; giraffe grinders; graders and motor patrols; gunnite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; hopper doors (power operated); ladders (motorized) - building & heavy construction rate only; laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic; mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers - small, self-propelled ride on type (also maintains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plasterer pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; seaman oulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic

GROUP 8
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, mutiple (rectifier transformer type) - building & heavy construction rate only

GROUP 9
Brooms & sweepers; bulldozer, D5 and over; fireman, sprinkler and water pump trucks (used on job site or in conjunction with jobsite); stone spreaders; sweepers & brooms; tractor, D8 & over; water and sprinkler trucks (used on job site or in conjunction with job site)

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 10
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only

GROUP 11
Front end loaders (under 1 yd.) - highway, road, street & sewer construction rate only

GROUP 12
Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8

GROUP 13
Compressor (single); heaters (Nelson or other type including propane, natural gas of flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 or less than 4 inch suction including submersible pumps); pumps, diesel enginer & Hydraulic (immaterial of power) - highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propape, natural gas or flow type units); welding machines, gas or electric converters of any type - single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance)

GROUP 14
Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only, farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street and sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street and sewer construction rate only); mulching equipment; road finishing machines (small type) - highway, road, street and sewer construction only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street and sewer construction rate only)

GROUP 15
Assistant engineer/oiler; mechanics helper; tire repair and maintenance

DECISION NO. NY79-3028

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: STEEL ERECTION					
GROUP 1	$17.44	12%+.40	10%	a	3%
GROUP 2	15.63	12%+.40	10%	a	3%
GROUP 3	14.72	12%+.40	10%	a	3%
GROUP 4	13.98	12%+.40	10%	a	3%
GROUP 5	12.20	12%+.40	10%	a	3%
GROUP 6	11.81	12%+.40	10%	a	3%
GROUP 7	11.66	12%+.40	10%	a	3%
GROUP 8	11.29	12%+.40	10%	a	3%
GROUP 9	10.73	12%+.40	10%	a	3%

50¢ per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above groung level and less than 140 feet; 75¢ per hour on machines where "Cat Head" or "Sheave Point" is 140 feet, or "Sheave Point" is 140 feet, or over above ground level.

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day, and Veterans Day provided the employee works any of the 3 days in the 5 work days preceeding the holiday and the first work day after the recognized holiday.

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POWER EQUIPMENT OPERATORS - STEEL ERECTION

GROUP 1
Helicopters pilot/engineer

GROUP 2
Cranes (all cranes - land or floating with booms - including jib, 140 feet and over above the ground); derricks (land or floating with booms including jib, 140 feet and over above the ground); helicopters co-pilot & communications engineer

GROUP 3
Cranes (all cranes - land or floating with booms - including jib, less than 140 feet above the ground): derricks (land or floating, with booms including jib, less than 140 feet above the ground)

GROUP 4
Aerial platform used as hoist; a-frame; cherry pickers - 6 tons and under (over 6 tons - crane rate applies); fork lifts; hoists (all types except Chicago Boom type); jacks (screw air hydraulic power operated unit or console type, not hand jack or pile load test type); side booms

GROUP 5
Compressors (2 or 3 in battery); generators; welding machines (gas Or electric convertors of any type 2 or 3 in battery multiple welders) welding system mutiple (rectifier transformer type)

GROUP 6
Maintenance engineer

GROUP 7
Fireman

GROUP 8
Compressor (single); rod bending machines (power); welding machines (gas or electric converters of any type-single)

GROUP 9
Assistant engineer/oiler; straddle carrier

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Drivers on LeTourneau Tractors, double barrel Euclids, Athey wagon and similar equipment (except when hooked to scrapers), low beds, I-Bean, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over	10.50	.95	1.05	a+b	
Equipment 25 yards and over up to and including 30 yard bodies cable dump trailers, powder and dynamite trucks	10.40	.95	1.05	a+b	
Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	10.20	.95	1.05	a+b	
Ten wheelers, grease trucks and tiller men	10.10	.95	1.05	a+b	
Straight trucks	10.00	.95	1.05	a+b	
Pick-up trucks used for hauling material parts escort man over the road	10.00	.95	1.05	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTE:
a. Holidays: A through F; Washington's Birthday; Election Day; Veteran's Day; Lincoln's Birthday; Election Day; Good Friday.

b. 3 day bereavement pay (spouse, mother, father, mother-in-law, father-in-law, grandmother, grandfather, sister, brother, children, grandchildren).

SUPERSEDEAS DECISION

STATE: North Carolina COUNTY: Statewide
DECISION NUMBER: NC79-1125 DATE: Date of Publication
Supersedes Decision No.: NC75-1078 dated September 5, 1975 in 40 FR-41367
DESCRIPTION OF WORK: Water Line and Sewer Line Construction; and Heavy Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	4.47				
Carpenters	5.16				
Cement masons	5.01				
Fence erector	4.04				
Ironworkers:					
Structural	4.81				
Laborers:					
Asphalt raker	3.95				
Laborers, unskilled	3.37				
Pipelayers	3.98				
Powderman	5.95				
Manhole Builders	4.00				
Millwrights	4.00				
Painters	5.50				
Piledrivers	6.29				
Plumbers & Pipefitters	5.25				
Truck Drivers	3.67				
POWER EQUIPMENT OPERATORS:					
Asphalt pavers	3.98				
Backhoes	4.99				
Boom operators	4.00				
Bulldozers	4.50				
Compactors	3.75				
Cranes	5.87				
Draglines	5.50				
Drills:					
Air	4.81				
Well	4.50				
Loaders	4.48				
Mechanics	5.16				
Motor graders	4.25				
Oilers	3.75				
Pump operators	3.75				
Rollers	3.25				
Scrapers - Pans	4.25				
Screeds	4.08				
Tractors	4.75				
Trenching machine	5.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

SUPERSEDEAS DECISION

STATE: South Carolina COUNTY: See below*
DECISION NUMBER: SC79-1124 DATE: Date of Publication
Supersedes Decision No.: SC75-1029 dated March 7, 1975 in 40 FR-10900 and Decision No. SC75-1045 dated April 11, 1975 in 40 FR-16636
DESCRIPTION OF WORK: Residential construction projects consisting of single family homes and apartments up to and including 4 stories.

*Counties: Aiken, Allendale, Bamberg, Barnwell, Calhoun Edgefield, and Orangeburg

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning & heating mechanic	5.20				
Carpenters	5.18				
Carpet layers	5.00				
Concrete finisher	5.74				
Drywall finisher	6.37				
Drywall hanger	5.00				
Electricians	5.29				
Insulation Installer	3.95				
Laborers:					
Asphalt raker	4.50				
Laborers, unskilled	3.00				
Mason tenders	3.75				
Mortar mixers	3.75				
Pipelayers	6.00				
Painters, brush	5.13				
Plasterers	6.00				
Plumbers & steamfitters	6.47				
Roofers	4.00				
Sheet metal workers	4.69				
Soft floor layers	6.75				
Tile setters	6.00				
Truck drivers	3.00				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Air compressors	4.00				
Asphalt sweepers	4.50				
Backhoe	4.35				
Bulldozers	5.00				
Cranes, derricks, dragline	4.50				
Curbing machines	4.50				
Distributors	4.12				
Finishing machines	4.50				
Forklifts	4.50				
Front end loaders	4.28				
Mechanics	4.63				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (cont'd)					
Motor graders	$5.00				
Pans - scrapers	4.50				
Tractors	3.41				
Trenching machines	4.50				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: VIRGIN ISLANDS COUNTY: ISLAND WIDE
DECISION NO.: VI79-3023 DATE: DATE OF PUBLICATION
Supersedes Decision No. 78-VI-3011 dated March 24, 1978 in 43 FR 12611
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & INSULATORS	5.76	.12		a+b	
CEMENT MASONS	4.86				
ELECTRICIANS	6.13	.12		a+b	
IRONWORKERS (REINFORCING)	4.84	.12		a+b	
LABORERS:					
Unskilled	4.20	.12		a+b	
Asphalt Rakers	4.34	i		f+g+h	
MILLWRIGHTS	6.30	c		d+e	
PAINTERS	4.88	.12		a+b	
PLUMBERS & PIPEFITTERS	6.13	.12		a+b	
POWER EQUIPMENT OPERATORS:					
Backhoe	5.65	.12		a+b	
Bulldozer	4.82				
Crane	6.79	.12		a+b	
Loader	3.85				
Roller	4.00				
Paving Machine	4.60				
SANDBLASTER	5.21	.12		a+b	
TRUCK DRIVERS	4.00				

DECISION NO. VI79-3023

FOOTNOTES:

a. Paid Holidays include New Year's Day, Three Kings Day, Martin Luther King Day, Good Friday, Easter Monday, July 4th, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day and Christmas "Second Day"

b. Vacation pay at the rate of 12 hours per month

c. $5.79 per week

d. 10 Paid Holidays

e. Vacation: 1 to 5 yrs. of service, 14 consecutive days at 80 hrs. pay; 5 to 10 years of service, 21 consecutive days at 120 hrs. pay; ten or more years of service, 28 consecutive days at 160 hrs. pay

f. 9 Paid Holidays

g. Vacation: One year of continus service - one week paid vacation, 2-4 yrs.-2wks., 5-9 yrs.-3wks and 10 or more years-4 wk

h. Sick leave: Each employee with one or more years of service receives 8 days paid sick leave per year and with less than one year of service receives one day for every 40 days worked ... 6 days

i. $7.50 per month

SUPERSEDEAS DECISION

STATE: VIRGIN ISLANDS COUNTY: ISLAND WIDE
DECISION NO.: VI79-3024 DATE: DATE OF PUBLICATION
Supersedes Decision No. VI78-3010 dated March 24, 1978 in 43 FR 12611
DESCRIPTION OF WORK: Building Construction Projects including Residential Construction Projects (single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	5.00				
CARPENTERS	4.51				
CEMENT MASONS	4.43				
ELECTRICIANS	4.62				
IRONWORKERS	4.50				
LABORERS:					
Unskilled	3.41				
Mason Tenders	3.51				
PAINTERS	3.50				
PLUMBERS AND PIPEFITTERS	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.50				
Compressor	4.00				
Crane	5.00				
TRUCK DRIVERS	5.00				

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federal register

Friday
September 7, 1979

Part III

Department of the Interior

Office of the Secretary

National Monuments, Preserves and Primitive Areas; Review for Class I Redesignation Recommendation

DEPARTMENT OF THE INTERIOR

Office of the Secretary

National Monuments, Preserves and Primitive Areas; Review for Class I Redesignation Recommendation

Introduction

The Clean Air Act, Part C, The Prevention of Significant Deterioration, Section 164(d), directs the Secretary of the Interior to "review all national monuments, primitive areas, and national preserves" and to "recommend any appropriate areas for redesignation as Class I where air quality related values are important attributes of the area." The Act requires the Secretary to report his recommendations, with supporting analysis, to the Congress and the affected States and Indian tribes, who are responsible for undertaking any redesignation. The Secretary assigned lead responsibility for the review of air quality related values to the Assistant Secretary for Fish and Wildlife and Parks. The Assistant Secretary established an Air Quality Task Force made up of representatives of the National Park Service, Bureau of Land Management, and the Office of the Solicitor to support the review effort. Notice of the areas under review, a description of the preliminary analysis procedure, and an invitation for public and State and tribal consultation and comment appeared in the **Federal Register** on April 10, 1978. The notice was sent to each State Clearinghouse, the Virgin Islands Clearinghouse, and the Navajo Nation, as part of the consultation process. Over 255 comments were received. These comments, in conjunction with the Task Force findings, were utilized by the Task Force in formulating a preliminary list of recommended areas, which is now being circulated for comment by the States, Indian tribes, and the public. Upon close of the 30 day comment period, the Secretary of the Interior will formulate his final recommendation utilizing both the recommendations of the Task Force and information provided during the comment period, and will submit his report to the affected States and Indian tribes, and to Congress. In order to recognize the key role of the States and Indian tribes in the redesignation process, any comments submitted by the States and Indian tribes will be given to Congress unabridged along with the final recommendation.

Action

The Air Quality Task Force has reviewed the 82 national monuments and 2 national preserves in the National Park System and the 11 primitive areas administered by the Bureau of Land Management and has identified those areas that possess air quality related values as important attributes and, in the opinion of the Task Force, should be considered for the special protection afforded by Class I status. They have forwarded this list to the Secretary of the Interior.

The States, Indian tribes, and the public are invited to review the Task Force report and to comment to the Secretary. The Secretary will then review the findings of the Task Force together with the comments, and he will recommend any appropriate areas for redesignation as Class I. These recommendations will be reported to Congress, the States, and Indian tribes. The States and Indian tribes are, at this time, solely responsible for carrying out the redesignation of these areas to Class I. In weighing the merits of redesignation, the States and Indian tribes are to consider the socioeconomic and development factors, in which they are expert, along with the Secretary's recommendations, which are based solely on the Department's knowledge of intrinsic natural resource values that could be adversely affected by changes in air quality.

Purpose

The purposes of this notice are to (1) inform the public of the Task Force findings, (2) describe the procedure that the Task Force used in reaching its findings, (3) request to public comments, (4) request information from the States on planned industrial development that may be affected by redesignation, particularly where a State or Indian governing body disagrees with the Task Force's recommendation; where there is agreement on a positive recommendation, supporting data is also solicited, and (5) report on consultation with the States and outline the procedures by which the States and Indian tribes can further consult with the Secretary of the Interior before he submits his recommendations to the Congress, the States, and the Indian tribes.

Task Force Findings

The Task Force concluded that 47 of the 95 areas studied possess air quality related values as important attributes and should be considered for Class I redesignation. Of the 42 areas over 5,000 acres in size, 38 were identified as possessing air quality related values as important attributes, as were 9 of the 53 areas under 5,000 acres in size.

Summary of Analysis Procedure

The original analysis procedure announced in the April 10, 1978 **Federal Register** involved a five-step process that was to be applied to each area in order to identify those areas which possess air quality related values as important attributes. The steps (1) evaluated the practicality of redesignating an area, (2) determined whether air quality related values were important attributes of the area, (3) assessed the effects Class I redesignation would have on planned major emitting facilities in the vicinity of the area, (4) considered whether it was in the public interest to redesignate an area, and (5) made final recommendations based on the preceding steps.

After beginning the analysis, the Task Force revised the procedures described above to recognize more fully the role assigned to the States and Indian tribes for balancing economic and development effects with the intrinsic resource characteristics in the redesignation process. The Clean Air Act (Section 164(b)) gives the States and, in some cases, Indian tribes, the principal role in redesignating areas from one class to another. In this process the States or Indian tribes will, for each area being considered, evaluate the social, energy, economic, health and environmental effects of redesignation.

Further, the Task Force determined, through consultation with the Environmental Protection Agency and with several of the States, that it was impractical, if not impossible, to identify all potential major emitting facilities within the vicinity of a study area. This prevented drawing any meaningful conclusion from the available information.

Finally, as reported below, States and public utilities pointed out the need or desirability to pursue further analysis prior to actual redesignation. Therefore the Task Force abandoned the original Steps Three and Four as determinative tests in the review procedure. In order to respond to the States' requests for information regarding the potential effects of redesignation on State growth and development, a technical report has been provided to aid the States, as they are responsible for addressing these concerns. In addition, data was analyzed on known proposed fossil fueled power plants; however, as it was not possible to obtain adequate information, the results were not used to shape the Task Force's conclusions. As required by the Clean Air Act, the Task Force's findings represent the conclusions drawn from the point of

view of the unique and nationally significant publicly owned natural and cultural resources. The technical analysis of potential effects on industrial growth is an attempt to represent typical effects only; though not required by the Act, it is included at the State's request, to aid them in performing their analysis of effects of redesignation upon industrial growth and development. The technical report is not intended for site-specific application, but is intended only to give the redesignating authorities some general planning information for their use.

In concluding whether or not a reviewed area possesses air quality related values as important attributes, the Task Force retained the definitions announced in the April 10, 1978 Federal Register. The definitions are:

Air quality related values are all those values possessed by an area except those that are not affected by changes in air quality and include all those assets of an area whose vitality, significance, or integrity is dependent in some way upon the air environment. These values include visibility and those scenic, cultural, biological, and recreational resources of an area that are affected by air quality.

Important attributes of an area are those values or assets that make an area significant as a national monument, preserve, or primitive area. They are the assets that are to be preserved if the area is to achieve the purposes for which it was set aside.

In identifying the resources of an area the Task Force reviewed information found in the area's enabling legislation and in management and planning documents, mainly the Statement for Management. After the resources of the area were identified, they were evaluated to determine if they possessed air quality related values as defined above.

The next step involved determining if the air quality related values identified are important attributes of the area. This process hinged on the definition of important attributes. Where values determined to be air quality related were expressly identified as part of the legislative purpose for which the area was set aside, this identification process became relatively clear-cut. Areas were also identified based on a finding that, while the value itself was not expressly named as a purpose for the area's establishment, the preservation of that value intertwines closely with the achievement of those purposes which were expressed.

In determining the importance of air quality related values, the Task Force did not consider the area's present air quality or the consequences of preventing further air quality deterioration. An area's size was not used as a controlling criterion for making the determinations. The size criterion of 5,000–6,000 acres used by Congress in its initial designation of Class I areas was useful as an initial guide in the review process, but it was abandoned as a determining factor, since an area's size is not necessarily related to the possession of unique resources which could be affected by air quality.

Conclusions

If an area possessed air quality related values as important attributes, the Task Force concluded that Class I redesignation should be considered. A list of the 95 study areas and the Task Force determinations appears in the appendix.

Regional Influences

During the review process, the Task Force collected and analyzed information on an area's regional influences, primarily fossil fueled generating facilities. This information indicates those areas whose air quality related values may be affected by regional influences. The Task Force believes that the States may wish to give special attention to the redesignation of these areas. The information may also suggest how redesignation of an area may affect the surrounding region.

The lack of comprehensive and reliable data on the development of planned or proposed major emitting facilities and the lack of monitoring data precluded a thorough analysis or evaluation of these effects on a site-specific basis. The Secretary would, however, appreciate receiving any additional site-specific information that States, Indian tribes, or the private sector might have relating to planned, proposed, or potential major sources which may be affected by Class I redesignation. The Technical Report has been prepared to provide information on the types of effects on major industrial development that may occur as a result of redesignation of areas to Class I. General conclusions of the analyses are as follows: (1) Residential, commercial, very small industrial sources and all existing industrial sources would not be affected by redesignation to Class I, as these types of facilities are not covered by the Prevention of Significant Deterioration (PSD) provisions of the Clean Air Act; (2) In no case would an industrial facility of the size and type discussed in the analyses be precluded from siting in the state; and (3) The siting distance for major emitting facilities to meet Class I PSD increment requirements is sensitive to variations in the size of the source, the level of control technology applied to the source, the stack height of the source, the prevailing local meteorological conditions, the presence or lack of intervening high terrain, the fuel mix at the source, and the type of industrial processes used at the source. The source may take advantage of those factors that would tend to mitigate any adverse effect on a proposed Class I area, such as application of additional controls, use of higher stacks, or siting to take advantage of intervening high terrain. Further site-specific assessment of these effects could be done at the States' request in support of actual redesignation of an area. The Task Force review sketches out some of the possible consequence of redesignation to provide a general understanding of the context in which the Secretary is to make his recommendations.

This assessment did not identify any area of critical or immediate concern, but it does represent the beginning of a continual oversight process. These oversight activities will include an expanded program of air quality monitoring and further research on the susceptibility of resources to air quality degradation. As increases in air pollution threaten air quality related values or as resources with particular sensitivity to air quality degradation are discovered, the oversight process will likely identify areas for which prompt redesignation to Class I is warranted. Congress and the States will be notified of these areas, and the Federal Land Manager will assist and promote redesignation on these areas on both the Federal and State level.

Response to Public Comment

The formal agency record consists of over 255 written comments, including 70 from State and local governments, 42 from businesses and corporations, 43 from organizations and associations, and 100 from individuals.

Comments were requested on:

1. The importance of air quality related values of the areas under review and
2. The appropriateness of Class I redesignation of the areas under review.

In addition to these topics, comments were received on:

3. The consequences that would follow redesignation of an area, and
4. The procedural method adopted for the review.

As an overall response to comments received, the Task Force notes several factors concerning this review

procedure and concerning redesignation in general.

This review will result in preliminary recommendations. The Task Force has identified areas which they conclude should be considered for the special protection provided by Class I status. After further consultation with the States and affected Indian tribes, the Secretary will make his recommendations and forward them to the States, the Indian tribes, and to the Congress for their consideration.

In its review, the Task Force concentrated on the importance of air quality related values in each area, as required by the Clean Air Act. The review was based on the expertise of the Department of the Interior staff and reflects their legislatively mandated responsibility to manage the resources of these areas for the public benefit.

Concerning redesignation in general, the Task Force notes that the States and Indian tribes have significant redesignation responsibilities. The Clean Air Act gave the States, and in some areas, the Indian tribes, the primary authority to redesignate an area. Before redesignating an area, the States and Indian tribes must consider all of the issues that surround redesignation. Specifically, Section 164(b) of the Clean Air Act requires that the States or sovereign Indian tribes hold public hearings and describe, analyze, and balance the health, environmental, economic, social, and energy effects of the proposed redesignation. Under the Clean Air Act, States and sovereign Indian tribes are given the sole responsibility for redesignation and for balancing the economic and environmental factors in the decision-making process for redesignation.

Finally, it is of paramount importance to note that, should an area be redesignated, the major result is to give the Federal Land Manager an active role in future decisions that may affect the air quality related values of the area. It is only if the area is Class I that the Federal Land Manager has the responsibility to review permits for new sources. If a source meets PSD increment requirements, the burden of proof of harm is on the Federal Land Manager. If the Federal Land Manager can convince the permitting authority that harm will occur even though the PSD increments are met, the permitting authority may deny the permit. However, a source that exceeds the PSD increments may still be allowed to site, if it can prove to the satisfaction of the Federal Land Manager and the permitting authority that no adverse effect on air quality related values will occur. Then, the Federal Land Manager will recommend to the permitting authority that the permit be granted. In this case, the burden of proof of no harm is on the source.

The Importance of Air Quality Related Values

A large proportion of the comments, particularly those from individual citizens and conservation groups, described values in the areas under study that they felt were both air quality related and important. The values described include a variety of resources, including visibility, flora, fauna, archeological and recreational resources. These comments were considered during the review procedure and, for the most part, are reflected in the Task Force's findings.

Some comments proposed that the air quality related values for each study area should be ranked with all the other important values that the area possesses. They suggested that this hierarchical approach was the appropriate procedure for assessing the significance of the air quality related values in the area. This suggested procedure was not followed by the Air Quality Task Force. Section 164(d) of the Clean Air Act directed the Federal Land Manager to recommend any appropriate area for redesignation in which air quality related values are important attributes to the area. The Task Force was concerned that the air quality related values of the areas met the criterion on "important" or required protection in order to achieve the purposes for which these areas were established. No attempt was made to rank the relative importance of air quality related values within one area or those in one area with those in another area; it was felt that such an apples-and-oranges comparison was not feasible and was not within the requirements of the Clean Air Act, which required identification of the existence of any important attribute. The test was to determine importance, not to provide a relative ranking of importance.

Other comments suggested that the definition of air quality related values given in the April 10, 1978 **Federal Register** notice was too vague to allow an accurate assessment of the importance of air quality related values in specific areas. This definition was intended to be inclusive and unqualified. The values affected by changes in air quality range so broadly that a definition which encompasses all these values may lack the specificity that some respondents sought. A specific description of each area's air quality related values, sufficient to indicate whether or not Class I status should be considered, is included in the supporting analysis, which will be sent to the Congress, the States, and affected sovereign Indian tribes.

The Act specifies that visibility is an air quality related value. The Task Force established four additional general categories—fauna, flora, cultural, and water resources—to facilitate a specific description of the air quality related values in each area. For each area, the values affected by changes in air quality were assigned to one of these categories and explicitly described.

The Appropriateness of Redesignation to Class I

A large proportion of the comments suggested that Class I redesignation was appropriate for many areas in order to protect air quality related values. Some noted that many study areas resemble national parks or wilderness areas, which Congress designated as mandatory Class I. They suggested that this similarity made these areas appropriate for redesignation to Class I. Others described the scarcity, sensitivity, or aesthetic qualities of the air quality related values in the study areas. They suggested that these properties made redesignation of these areas to Class I appropriate. These comments were very useful, and, in general, support and are reflected by the Task Force findings.

Some comments, particularly from environmental groups and individual citizens, suggested that all areas were appropriate for redesignation. The Task Force did not follow this suggestion. If Congress had been satisfied that all study areas were appropriate for Class I redesignation, they would not have directed the Federal Land Manager to perform the review. Furthermore, in the review the Task Force found that some areas lack air quality related values as "important attributes," and, therefore, cannot meet the guideline for recommendation for redesignation prescribed by Congress.

Other comments suggested that Class II designation sufficiently protected areas with air quality related values. They indicated that air quality deterioration up to the levels allowed by Class II increments had no demonstrated adverse effects on air quality related values.

The Task Force recognizes that, in many instances, the effects of air quality deterioration upon air quality related values remain unknown. For the present they assume that for certain critical resources, such as endangered or endemic species and other resources necessary to be preserved to protect

significant natural values, recommendations for Class I protection are appropriate. Class I status gives the Federal Land Manager an opportunity to assess these consequences before any damage can occur, as Class I status gives new source permit review authority to the Federal Land Manager.

Consequences of Redesignation

Many commenters experessed concern that redesignation would adversely affect the economies of the regions surrounding areas redesignated to Class I. They asserted that the Task Force's review did not adequately consider these effects. Some suggested that the Task Force perform a cost-benefit analysis to understand the consquences of redesignation. The Task Force did not attempt to assess the economic consequences, the "costs," of redesignation in its review since the Clean Air Act states that this analysis is to be done by the States and sovereign Indian tribes. The Task Force restricted the scope of its review in recognition of the significant role assigned to the States and Indian tribes in the redesignation process. The Clean Air Act gives the States and Indian tribes primary responsibility for redesignating an area, and they must fully assess the consequences of redesignation following specific procedural requirements detailed in Section 164(b). This section requires that "public hearings shall be conducted" and "a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation shall be prepared and made available for public inspection" prior to any State redesignation. Thus, if the Task Force conditioned their recommendations on their assessment of the consequences of redesignation, they would be assuming a function specifically assigned to the States and Indian tribes. It is noted that the Secretary of the Interior has a responsibility to protect the Federal lands under his management. Many of the areas for which this review is mandated were established under the authority of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), and they are managed according to the mandates of the Act of August 25, 1916 as amended (39 Stat. 535, 16 U.S.C. 1, 2–4), which requires that the area be managed "to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such a manner and by such a means as will leave them unimpaired for the enjoyment of future generations." The preservation of historic features within monuments is mandated under the Act of August 21, 1935 (49 Stat. 666, 16 U.S.C. 461 et seq.), Presidential Proclamation 11593. Thus, it was appropriate for the Task Force to limit review to those factors which are derived directly from the Federal Land Manager's legislative mandate.

Other comments suggested that, before recommending an area for redesignation, DOI should prepare an economic impact analysis in accordance with Executive Orders 11821, 11949 and OMB Circular A–107. The Task Force believes that the economic consequences of *recommending* an area for redesignation are either nonexistent or too speculative to warrant the formal analysis suggested; this analysis is more properly done by the redesignating authority at the time that the State or Indian Governing Body chooses to consider the redesignation recommendation.

Some comments suggested that the analysis should explicitly state a purpose for preserving the air quality in each area and describe how that purpose would be affected by specific increases in air pollution. The purpose of redesignating an area "Class I" is to protect any resources of an area that possess air quality related values as important attributes. The supporting analysis, in accordance with the Clean Air Act, describes each area's air quality related resources and determines whether they are important. In many instances the effect of specific increases in air pollution on these air quality related values remains unknown; however, the air quality related values themselves are identified as being important. Some general findings exist (see, for instance, "Susceptibility of Woody Plants to Sulfur Oxide and Photochemical Oxidents" by Donald D. Davis and Raymond G. Wilhour, EPA–600/3–76–102; "Effects of Sulfur Oxides in the Atmosphere on Vegetation" by the National Environmental Research Center, Office of Research Land Development, United States Environmental Protection Agency, Research Triangle Park, North Carolina, September 1973; or "Acceptable Limits for Air Pollution Doses and Vegetation Effects: Sulfur Dioxide" by Leon S. Dochinger and Thomas A. Seliga in *Journal of the Air Pollution Control Association*, vol. 25, no. 11, November 1975). Redesignating an area "Class I" provides the Federal Land Manager the opportunity to fully assess the effects of increased air pollution on specific resources in specific areas before any damage can occur; without Class I protection, damage can only be identified after it has already occurred.

Other comments suggested that recommendations be delayed because the consequences of redesignation cannot be assessed until visibility regulations are established. This was rejected as the regulations are not necessary to make recommendations.

Other comments stated that redesignation be delayed because EPA has yet to promulgate PSD regulations for pollutants other than total suspended particulates and sulfur dioxide. Thus, the full consequences of redesignating an area "Class I" remains unknown. The Task Force recognizes that uncertainties surround redesignation. However, in requiring this review, Congress imposed a one-year time frame. Moreover, the Department of Interior is not acting as the redesignating authority; it is analyzing areas specified by Congress and recommending for redesignation those areas that possess air quality related values as important attributes. These recommendations do not prevent the redesignating authorities from scheduling the redesignation process to take advantage of available, or soon-to-be-available, information.

Other comments expressed concern that Class I redesignation of an area would unreasonably restrict the allowable uses of the surrounding land. Respondents cited specific activities about which they were concerned. These included agriculture, coal mining, uranium mining, coal gasification and liquifaction, oil leasing, and general manufacturing. Utility companies were particularly concerned that Class I redesignation would limit the number of sites available for coal fired electrical generating plants.

The Task Force appreciates the concerns expressed by these respondents. The information they provided was not applied directly to the review procedure. However, the information did offer good background material for considering the effects redesignation will have on developments outside the studied area and for understanding which areas' air quality related values may be threatened by pending developments such that Class I redesignation is desirable.

Some of these respondents misinterpreted the consequences of redesignating an area to Class I. Some saw this as freezing all developments in the surrounding region. It should be noted that the Prevention of Significant Deterioration Provisions apply only to the specified 28 major stationary sources and to those major stationary sources with the potential to emit more than 250 tons per year. General areawide growth is not included in the

permit review requirements. Some interpreted the Class I increments as absolute limitations imposed on allowable deterioration of air quality. In order to address such concerns, the Technical Report was prepared for circulation with the supporting information on air quality related values.

The Task Force emphasizes that the primary effect of redesignating Federal lands as Class I is to provide the Federal Land Manager with a determinative role in protecting an area's air quality related values from adverse impacts from major emitting facilities. The Class I increments provide a guideline for assessing these adverse impacts. All developments which will not cause or contribute to air quality concentrations in excess of the Class I increments are permitted unless the Federal Land Manager demonstrates to the permitting authority that those emissions will adversely impact air quality related values of a Class I area. Developments whose emissions will cause or contribute to concentrations in excess of the Class I increments are not allowed unless the owner or operator of that development can demonstrate that these emissions will not adversely impact air quality related values in the affected Class I area. In all instances increases are limited to Class I' increments (nearly equivalent to Class II, see table) except in the special instance of an SO_x variance. Thus, Class I redesignation of an area does not freeze all developments in the surrounding region; it only affects those major new developments which advesely affect the area's air quality related values. Nor do the Class I increments represent absolute limits on allowable air pollution increases; they provide a threshold which, when exceeded, requires a demonstration of no adverse effects on air quality related values.

Maximum Allowable Increase Per Class

[In micrograms per cubic meter]

	I	I'	II	III
Particulate matter:				
Annual geometric mean	5	19	19	37
Twenty-four-hour maximum	10	37	37	75
Sulfur dioxide:				
Annual arithmetic mean	2	20	20	40
Twenty-four-hour maximum	5	91	91	182
Three-hour maximum	25	325	512	700

Procedural Method

A number of comments were addressed at the size cut-off. They suggested that 10,000, not 5,000 acres, was appropriate. Section 164(a) authorizes a state to designate any area (except Indian reservations) as Class I. There appears to be no minimum acreage limitation imposed for lands to be redesignated Class I. Further, Section 164(d) requires the Federal Land Manager to review all national monuments, primitive areas, and national preserves and makes no mention of minimum size. Accordingly, the Air Quality Task Force considered the importance of air quality related values for all areas specified by Congress. The Congressionally established precedent of 5,000 or 6,000 acres (used for areas designated mandatory Class I) became a rough guideline for assessing the practicality of redesignation, but each area studied was assessed on its own merits without regard to size. The Task Force understands the limitations placed on national monuments, national parks, and primitive areas greater than 10,000 acreas as a prohibition against Class III designation.

Other comments suggested that we delay recommendations until baseline data that would indicate the existing air quality in the areas under study could be obtained. Some suggested that we monitor ambient air quality in these areas for at least a year before recommending areas for redesignation. We agree that documentation of existing air quality in these areas would be valuable for this review and will be valuable in the future. However, such information is unnecessary for the purposes of making recommendations, as the study focused attention on the air quality related values of each area. These values are values that are affected by changes in air quality; they are not the air quality itself. Also, Class I status sets increments for allowable pollution increases and does not establish fixed ambient air quality standards. Thus baseline data do not appear essential for assessing how these increments would be affected by general development or the operation of major emitting facilities. Finally, we see the States and Indian tribes playing a significant role in the redesignation process. Before they redesignate an area, they must thoroughly analyze the effects of redesignation. If they consider that baseline ambient air quality data are needed to adequately weigh the costs and benefits of redesignation, such data can be obtained at that time, and the timetable for redesignation can be expanded to allow such study. A few comments noted that some models used for assessing the impacts of pollution sources are subject to errors which exceed the size of Class I increments. They suggested that these inaccuracies made redesignation recommendations unworkable. The Task Force recognizes that models used for simulating the effects of air pollution emissions are only accurate within a certain range, and they await the development of more accurate models. However, they note that Congress has established the magnitude of the Class I increments with an understanding of limitations of the models. Nevertheless, infallible models are not needed to determine whether an area possesses air quality related values as important attributes.

Consultation With the States and Procedures for Further Consultation

The Clean Air Act, Section 164(d), requires the Federal Land Manager to consult with the appropriate States before making recommendations. Accordingly, a copy of the April 10, 1978 **Federal Register** notice was sent to each State A–95 Clearinghouse. The States and Indian tribes were invited to consult with departmental representatives and to provide written comments.

Areas under review are located in 28 States and the Virgin Islands, and the Task Force received comments from State Officials representing 17 States and the Virgin Islands. When requested to do so, departmental officials held meetings with State officials. The States made suggestions concerning specific areas or they generally addressed the review procedure. The results of these comments and meetings are responded to in the "Response to Public Comment" section of this **Federal Register** Notice.

Some comments also suggested that State and tribal consultation was inadequate. They stated that notifying the States and Indian tribes of the review through the A–95 Clearinghouse procedure did not constitute consultation. In order to offer additional opportunity for State and tribal consultation, the findings of the Task Force are being sent to each affected State and Indian tribe; each is invited to meet the Task Force representatives and to advise the Secretary of their interest. Those States and Indian tribes that wish to consult further with departmental representatives should contact Ms. Toni Ristau, Air Quality Planner, National Park Service, at (202) 343–4911. All the States and Indian tribes are invited to

provide additional comments to the Secretary of the Interior by October 9, 1979. The Department is particularly interested in receiving specific data and analyses where a State or Indian Governing Body may disagree with a positive recommendation; supporting data and comments are also solicited. These comments should be addressed to Secretary of the Interior, Attn: National Park Service, Air and Water Resource Division (492), Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240.

Dated: July 16, 1979.

Robert L. Herbst,

Assistant Secretary For Fish and Wildlife and Parks.

Appendix.—*National Monuments and National Preserves Reviewed for Recommendation to Redesignate as Class I Under Clean Air Act Section 164(d)* [1]

Area name [1]	State	Task force [3] identification	Acreage		Federal wilderness acres already designated class I	Establishing authority [2]
			Federal	Gross		
Russell Cave NM	AL	No	310.45	310.45		P.L. 59-209, Proc. 3513
Glacier Bay NM	AK	Yes	2,805,071.54	2,805,769.49		P.L. 59-209, Proc. 1733
Katmai NM	AK	Yes	2,792,131.73	2,792,150.74		P.L. 59-209, Proc. 1487
Canyon de Chelly NM	AZ	Yes	0	83,840.00		P.L. 71-667
Casa Grande NM	AZ	No	472.50	472.50		P.L. 59-209, Proc. 1470
Chiricahua NM	AZ	Yes	10,645.90	10,648.25	9,440	P.L. 59-209, Proc. 1692
Hohokam Pima NM	AZ	No	0	1,555.40		P.L. 92-525
Montezuma Castle NM	AZ	No	824.92	841.75		P.L. 59-209, Proc. 696
Navajo NM	AZ	No	360.00	360.00		P.L. 59-209, Proc. 873
Organ Pipe Cactus NM	AZ	Yes	329,199.10	330,688.86	312,600	P.L. 59-209, Proc. 2232
Pipe Spring NM	AZ	No	40.00	40.00		P.L. 59-209, Proc. 1663
Saguaro NM	AZ	Yes	79,863.46	83,576.07	71,400	P.L. 59-209, Proc. 2032
Sunset Crater NM	AZ	Yes	3,040.00	3,040.00		P.L. 59-209, Proc. 1911
Tonto NM	AZ	No	1,120.00	1,120.00		P.L. 59-209, Proc. 787
Tumacacori NM	AZ	No	10.15	10.15		P.L. 59-209, Proc. 821
Tuzigoot NM	AZ	No	57.78	57.78		P.L. 59-209, Proc. 2344
Walnut Canyon NM	AZ	No	2,011.62	2,249.46		P.L. 59-209, Proc. 1318
Wupatki NM	AZ	Yes	35,353.24	35,253.24		P.L. 59-209, Proc. 1721
Cabrillo NM	CA	No	143.94	143.94		P.L. 59-209, Proc. 1255
Channel Islands NM	CA	Yes	18,384.97	18,388.07		P.L. 59-209, Proc. 2281
Death Valley NM	CA, NV	Yes	2,048,948.10	2,067,795.06		P.L. 59-209, Proc. 2028
Devil's Postpile NM	CA	No	798.46	798.46		P.L. 59-209, Proc. 1166
Joshua Tree NM	CA	Yes	547,789.59	559,959.79	429,690	P.L. 59-209, Proc. 2193
Lava Beds NM	CA	Yes	46,821.33	46,821.33	28,460	P.L. 59-209, Proc. 1755
Muir Woods NM	CA	Yes	514.32	553.55		P.L. 59-209, Proc. 793
Pinnacles NM	CA	Yes	14,177.77	16,215.67	12,952	P.L. 59-209, Proc. 796
Black Canyon of the Gunnison NM	CO	Yes	13,363.14	13,672.13	11,180	P.L. 59-209, Proc. 2033
Colorado NM	CO	Yes	19,744.96	20,444.67		P.L. 59-209, Proc. 1126
Dinosaur NM	CO, UT	Yes	203,629.17	211,053.45		P.L. 59-209, Proc. 1313
Florissant Fossil Beds NM	CO	No	5,992.32	5,992.32		P.L. 91-60
Great Sand Dunes NM	CO	Yes	36,426.16	36,826.50	33,450	P.L. 59-209, Proc. 1994
Hovenweep NM	CO, UT	No	785.43	785.43		P.L. 59-209, Proc. 1654
Yucca House NM	CO	No	10.00	10.00		P.L. 59-209, Proc. 1549
Big Cypress N. Pres.	FL	Yes	52,379.70	570,000.00		P.L. 93-440
Biscayne NM	FL	Yes	95,070.84	103,701.23		P.L. 90-606
Castillo de San Marcos NM	FL	No	19.78	20.49		P.L. 59-209, Proc. 1713
Fort Jefferson NM	FL	Yes	47,125.00	47,125.00		P.L. 59-209, Proc. 2112
Fort Matanzas NM	FL	No	298.51	298.51		P.L. 59-209, Proc. 1713
Fort Frederica NM	GA	No	210.72	214.52		P.L. 74-617
Fort Pulaski NM	GA	No	5,365.13	5,615.50		P.L. 59-209, Proc. 1713
Ocmulgee NM	GA	No	683.48	683.48		P.L. 73-350
Craters of the Moon NM	ID	Yes	53,535.05	53,545.05	43,243	P.L. 59-209, Proc. 1694
Effigy Mounds NM	IA	No	1,474.63	1,474.63		P.L. 59-209, Proc. 2860
Saint Croix Island NM	ME	No	22.19	35.39		P.L. 81-87
Fort McHenry NM and Historic Shrine	MD	No	43.26	43.26		P.L. 74-669
Grand Portage NM	MN	No	709.97	709.97		P.L. 85-910
Pipestone NM	MN	No	281.78	281.78		P.L. 75-364
George Washington Carver NM	MO	No	210.00	210.00		P.L. 78-148
Custer Battlefield NM	MT	No	765.34	765.34		P.L. 79-332
Agate Fossil BEds NM	NE	No	2,736.73	3,054.43		P.L. 89-33
Homestead NM of America	NE	No	182.11	194.57		P.L. 74-480
Scotts Bluff NM	NE	Yes	2,708.80	2,987.97		P.L. 59-209, Proc. 1547
Lehman Caves NM	NV	No	640.00	640.00		P.L. 59-209, Proc. 1618
Aztec Ruins NM	NM	No	27.14	27.14		P.L. 59-209, Proc. 1650
Bandelier NM	NM	Yes	29,661.20	36,971.20	23,267	P.L. 59-209, Proc. 1332
Capulin Mountain NM	NM	Yes	775.38	775.38		P.L. 59-209, Proc. 1340
Chaco Canyon NM	NM	Yes	20,990.27	21,510.32		P.L. 59-209, Proc. 740
El Morro NM	NM	Yes	1,039.92	1,278.72		P.L. 59-209, Proc. 695
Fort Union NM	NM	No	720.60	720.60		P.L. 83-429
Gila Cliff Dwellings NM	NM	Yes	533.13	533.13		P.L. 59-209, Proc. 781
Gran Quivira NM	NM	No	610.94	610.94		P.L. 59-209, Proc. 882
Pecos NM	NM	No	341.30	364.80		P.L. 89-54
White Sands NM	NM	Yes	144,751.77	145,334.76		P.L. 59-209, Proc. 2025
Castle Clinton NM	NY	No	1.00	1.00		P.L. 79-721
Fort Stanwix NM	NY	No	15.52	15.52		P.L. 74-291
Statue of Liberty NM	NY, NJ	No	58.38	58.38		P.L. 59-209, Proc. 1713
Mound City Group NM	OH	No	67.50	67.50		P.L. 59-209, Proc. 1653
John Day Fossil Beds NM	OR	Yes	2,035.00	14,402.00		P.L. 93-486
Oregon Caves NM	OR	No	465.80	465.80		P.L. 59-209, Proc. 876
Congaree Swamp NM	SC	Yes	0	15,135.00		P.L. 94-545
Fort Sumter NM	SC	No	62.27	62.27		P.L. 80-504
Badlands NM	SD	Yes	152,289.56	242,302.33	64,250	P.L. 59-209, Proc. 2320
Jewel Cave NM	SD	No	1,274.56	1,274.56		P.L. 59-209, Proc. 799
Alibates Flint Quarries and Texas Panhandle Pueblo Culture NM	TX	No	92.56	92.56		P.L. 89-154
Big Thicket N. Pres.	TX	No	10,579.02	84,550.00		P.L. 93-439
Cedar Breaks NM	UT	Yes	6,154.60	6,154.60		P.L. 59-209, Proc. 2054
Natural Bridges NM	UT	Yes	7,779.14	7,779.14		P.L. 59-209, Proc. 804
Rainbow Bridge NM	UT	No	160.00	160.00		P.L. 59-209, Proc. 1043

Appendix.—*National Monuments and National Preserves Reviewed for Recommendation to Redesignate as Class I Under Clean Air Act Section 164(d)*—Continued

Area name [1]	State	Task force [3] identification	Acreage		Federal wilderness acres already designated class I	Establishing authority [2]
			Federal	Gross		
Timpanogos Cave NM	UT	No	250.00	250.00		P.L. 59-209, Proc. 1640
Booker T. Washington NM	VA	No	223.92	223.92		P.L. 84-464
George Washington Birthplace NM	VA	No	455.98	455.98		P.L. 71-34
Buck Island Reef NM	VI	Yes	880.00	880.00		P.L. 59-209, Proc. 3443
Devil's Tower NM	WY	Yes	1,346.91	1,346.91		P.L. 59-209, Proc. 658
Fossil Butte NM	WY	Yes	7,417.64	8,178.00		P.L. 92-537

[1] NM is abbreviated as NM and N. Pres. is abbreviated as N. Pres.
[2] Presidential Proclamation is abbreviated as Proc., Public Law is abbreviated as P.L.
[3] Yes: The resources of the area possess air quality related values that are important attributes and the area should be considered for the special protection afforded by Class I status.
No: A review of the area has not identified air quality related values of sufficient importance to require protection beyond that afforded the surrounding region in order to realize the purpose for which it was set aside.

Appendix.—*BLM Primitive Areas under Review for Recommendation to Redesignate Class I under Clean Air Act Section 164(d)*

Area name	State	Task Force [3] Identification	Acreage		Establishing Authority [1]
			Federal	Gross	
Aravaipa Canyon	AZ	No	5,107.00	5,107.00	34 Fed. Reg. 642
Paiute	AZ	Yes	35,092.00	35,092.00	40 Fed. Reg. 44168
Paria Canyon	AZ, UT	Yes	27,515.00	26,515.00	33 Fed. Reg. 158
Chemise Mountain	CA	Yes	3,941.00	3,941.00	40 Fed. Reg. 44341
Powderhorn	CO	Yes	40,400.00	40,400.00	38 Fed. Reg. 23427
Beartrap Canyon	MT	Yes	2,861.00	2,861.00	37 Fed. Reg. 18573
Centennial	MT	Yes	24,166.00	24,166.00	40 Fed. Reg. 32848
Humbug Spires	MT	Yes	7,041.00	7,041.00	37 Fed. Reg. 18573
Dark Canyon	UT	Yes	57,248.00	57,248.00	35 Fed. Reg. 14621
Grand Gulch	UT	Yes	24,080.00	24,080.00	35 Fed. Reg. 14859
Scab Creek	WY	Yes	6,680.00	6,680.00	40 Fed. Reg. 26721

[1] These lands were set aside for management as "primitive areas" pursuant to 43 CFR, Part 207. The significance of the designation arises out of 43 CFR, Subpart 6221, which provides for restricted use of lands within the designated primitive areas.
[2] Yes: The resources of the area possess air quality related values that are important attributes and the area should be considered for the special protection afforded by Class I status.
No: A review of the area has not identified air quality related values of sufficient importance to require protection beyond that afforded the surrounding region in order to realize the purpose for which it was set aside.

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Part IV

Environmental Protection Agency

Effluent Guidelines and Standards; Electroplating Point Source Category; Pretreatment Standards for Existing Sources

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 413

[FRL 1263-8]

Effluent Guidelines and Standards; Electroplating Point Source Category; Pretreatment Standards for Existing Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation limits the concentrations or mass and requires pretreatment of certain pollutants which may be introduced into publicly owned treatment works by operations in the Electroplating Point Source Category. The purpose is to limit those pollutants which interfere with, pass through, or are otherwise incompatible with the operation of such treatment works. The Clean Water Act requires these standards to be issued.

DATES: Effective date: The regulations shall become effective October 9, 1979.

Compliance date: The compliance date shall be October 12, 1982.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, Effluent Guidelines Division, (WH-552) Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460. (202) 426-2576.

Organization of this Notice

I. Legal Authority.
II. Summary of Standards.
III. Overview.
IV. Technical Basis for Standards.
V. Upset and Net-Gross Provisions.
VI. Monitoring Requirements.
VII. Economic Impact Analysis.
VIII. Environmental Considerations.
IX. Availability of Documents.
X. Compliance Schedule.
XI. Small Business Administration Financial Assistance.
XII. Technical Summary and Basis for Regulation.
(1) General methodology.
(2) Summary of Technical Analysis.
(i) Subcategorization.
(ii) Origins and Characteristics of Waste Water Pollutants.
(iii) Treatment and Control Technology.
(iv) Cost Estimates for Control of Waste Water Pollutants.
(v) Energy Requirements and Nonwater Quality Environmental Impacts.
XIII. Summary of Public Participation.

SUPPLEMENTARY INFORMATION: On March 28, 1974, EPA promulgated a regulation adding Part 413 to Chapter 40 of the Code of Federal Regulations (39 FR 11510). That regulation (the "Phase I regulation") with subsequent amendments (the "Phase II regulation") (40 FR 18130, April 24, 1975) established effluent limitations guidelines for existing sources in five subcategories, and standards of performance and pretreatment standards for new sources in one subcategory. Revisions and additions setting forth effluent limitations guidelines based on "best available technology economically achievable" (BAT), pretreatment standards for new and existing sources, and standards of performance for new sources were also proposed for five subcategories (30 FR 11515, March 28, 1974 and 40 FR 18140, April 24, 1975). The history of rulemaking for the category by the Agency prior to December 1976 is described in greater detail in 41 FR 53018 (December 3, 1976).

On December 3, 1976, the Agency suspended the promulgated effluent limitations guidelines based on "best practicable control technology currently available" (BPT). The effluent limitations guidelines based on BAT, new source performance standards, and pretreatment standards for Subpart A of the Electroplating Point Source Category (41 FR 53018) were revoked. The Agency also withdrew its notices of proposed rulemaking for the category (41 FR 53070). The Agency took this action to reevaluate the appropriateness of the limitations and standards established earlier in light of new data and further analysis.

On July 12, 1977, the Agency issued interim final pretreatment standards which incorporated the additional study and analysis (42 FR 35834, July 12, 1977). However, these standards applied only to cyanide, hexavalent chromium, and pH and required plants discharging less than 152,000 liters (40,000 gallons) per day to comply only with amenable cyanide standards. On May 14, 1979 these standards were suspended (44 FR 15029). Therefore, as of this date no pretreatment standards are in effect for this industry.

On February 14, 1978 pretreatment standards were proposed that would require all plants to control hexavalent chromium, lead, cyanide and cadmium (43 FR 6560). In addition, plants discharging more than 38,000 liters (10,000 gallons) per day would be required to control discharges of additional metals. The Agency, after making certain changes in response to comments received, is promulgating this regulation in final form.

Pretreatment standards are being promulgated for process wastewater pollutants introduced into publicly owned treatment works (POTW) from existing sources which fall within the following subcategories of the Electroplating Point Source Category: Electroplating of Common Metals Subcategory (Subpart A); Electroplating of Precious Metals Subcategory (Subpart B); Anodizing Subcategory (Subpart D); Coatings Subcategory (Subpart E); Chemical Etching and Milling Subcategory (Subpart F); Electroless Plating (Subpart G) and Printed Circuit Boards (Subpart H). The content of the standards is discussed in detail below under Summary of Standards.

I. Legal Authority

This regulation is being promulgated pursuant to section 307(b) of the Clean Water Act, as amended, 33 U.S.C. § 1317(b) (the Act), which requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works. This regulation is also being promulgated in compliance with the Settlement Agreement in *Natural Resources Defense Council Inc. v. Train*, 8 ERC 2120 (D.D.C. 1976), as modified March 9, 1979.

II. Summary of Standards

This regulation establishes "categorical" pretreatment standards, containing specific numerical limitations based on an evaluation of available technologies in a particular industrial subcategory. The specific numerical limitations are arrived at separately for each subcategory, and are imposed on pollutants which may interfere with, pass through, or otherwise be incompatible with publicly owned treatment works (POTW). For plants with a daily flow of 38,000 liters (10,000 gallons) per day or more, the promulgated standards specifically limit indirect discharges of cyanide and the following metals: lead, cadmium, copper, nickel, chromium, zinc, and silver. Additionally, these regulations limit total metal discharge which is defined as the sum of the individual concentrations of copper, nickel, chrome and zinc. For plants with a daily process wastewater flow of less than 38,000 liters (10,000 gallons), these standards limit only lead, cadmium, and cyanide in order to limit the closure rate in the industry while contributing to significant environmental improvement.

The hexavalent chromium limitations which appeared in the proposed regulation have not been included in this final regulation. The Agency believes that hexavalent chromium limitations are probably unnecessary where total chromium limitations are established. Accordingly, plants discharging 10,000 gallons per day or more will be required to meet a total chromium limitation as originally proposed. The Agency also has eliminated the hexavalent chromium limitation for plants discharging less than 10,000 gallons per day. This was

done in order to help reduce the cost of this regulation to the industry. The Agency believes that in most instances the environmental effect of eliminating this requirement will not be significant.

Alternative mass-based standards which are equivalent to the concentration-based standards are also set forth in this regulation. These optional standards may replace the concentration standards where mutually agreed to by the discharger and the publicly owned treatment works. The methodology which was used to develop these limitations is set forth in the Development Document.

Optional TSS limitations have been promulgated by the Agency to reduce self-monitoring costs. TSS and pH limitations replace the Cu, Ni, Cr, Zn, and total metal limitations. Indirect dischargers using this optional limitation are prohibited from using strong chelating agents, must reduce hexavalent chromium wastewaters, and are required to neutralize their wastewater streams with calcium oxide or calcium hydroxide.

The present regulation should be read in conjunction with the General Pretreatment Regulation, 40 CFR Part 403, 43 FR 27736 (June 26, 1978). That regulation governs abnormal discharges which interfere with publicly owned treatment works and establishes mechanisms and procedures for enforcing national categorical pretreatment standards for existing and new sources. The General Pretreatment Regulation prohibits discharges into a POTW with a pH lower than 5.0 and discharges of such volume or strength as to cause POTW interference. These provisions require indirect dischargers of less than 10,000 gallons per day to install pH control and to slowly bleed their toxic waste batch dumps into a POTW.

III. Overview

These pretreatment standards cover all firms performing operations in the Electroplating Point Source Category that introduce effluent into publicly owned treatment works. These operations include electroplating, anodizing, conversion coating, electroless plating, chemical etching and milling, and the manufacture of printed circuit boards. These standards cover both firms performing these processes as their primary line of business and so-called captive operations that perform these processes as part of the manufacture of a product. The plants covered by these regulations are found throughout the United States but are concentrated in heavily industrialized areas.

The printing and publishing industry (SIC 2700) and the iron and steel industry (SIC 3300) are excluded from this pretreatment regulation even though they perform similiar operations. Future electroplating point source category regulations are expected to cover electroplating operations in these industries as well.

The standards require limitations on the discharge of pollutants that are toxic to human beings as well as to aquatic organisms. These pollutants include cadmium, lead, chromium, copper, nickel, zinc, silver, and cyanide. The Agency has put a high priority on the reduction of these pollutants from the nation's waters, primarily because of their toxic nature.

These standards cover a large number of indirect discharges that account for a significant amount of the toxic substances under consideration entering the environment. Revised estimates by the Agency indicate that compliance with these standards could prevent up to 140 million pounds per year of toxic pollutants from entering the ambient waters or concentrating in the sludge from municipal treatment systems.

The Agency's estimate of the quantity of metal pollutants which would be prevented from being discharged into POTWs by this regulation has increased from 40,000,000 to 140,000,000 pounds per year. This revised estimate is based on projected mean concentrations of each pollutant removed as a result of compliance with the regulation. This estimate increased because of a substantial increase in calculated industrial process flow for the plants affected by this regulation and the use of mean instead of median raw waste pollutant values. The Agency's estimate of pollutants discharged to POTWs indicates that electroplating is a major contributor of these pollutants to POTWs.

However, this environmental improvement is not attained without a significant economic impact. Economic analyses by the Agency indicate that many firms whose primary business is metal finishing or printed circuit board manufacturing are vulnerable to adverse economic impact.

After considerable restudy and based on public comments, the Agency believes it has found methods of reducing the projected economic impact of these pretreatment standards without seriously compromising the environmental improvement that this regulation would accomplish. Most importantly, plants whose metal finishing process wastewater flow is less than 10,000 gallons per day must meet a less stringent level of control than do plants with greater flows. Because of their high toxicity, however, cadmium, lead, and cyanide are controlled for all flows. Reducing the requirements on these smaller facilities (or facilities with smaller flows) significantly reduces the projected economic impact of the standards while relaxing controls on less than three percent of the flow to publicly owned treatment works.

Nonetheless, the projected economic impacts of these standards are a major concern to the Agency. The potential adverse effects of this regulation can be substantially reduced through the use of Small Business Administration economic injury loans.

The Agency has been working with the Small Business Administration to insure that loans and other financial assistance programs will be available to eligible firms affected by these standards.

On December 27, 1977, the President signed the Clean Water Act, P.L. 95-217, 91 Stat. 1566, which made significant changes in the Federal water pollution control laws. Included in the amendments is a provision allowing, under certain conditions, a variance from categorical pretreatment standards based on pollutant removal by municipally owned treatment works. This amendment to Section 307(b) of the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, provides:

"If, in the case of any toxic pollutant under subsection (a) of this section introduced by a source into a publicly owned treatment works, the treatment by such works removes all or any part of such toxic pollutant and the discharge from such works does not violate that effluent limitation or standard which would be applicable to such toxic pollutant if it were discharged by such source other than through a publicly owned treatment works, and does not prevent sludge use or disposal by such works in accordance with section 405 of this Act, then the pretreatment requirements for the sources actually discharging such toxic pollutant into such publicly owned treatment works may be revised by the owner or operator of such works to reflect the removal of such toxic pollutant by such works."

The list of toxic pollutants specified under section 307(a) is a list of pollutants reprinted in the House of Representatives Committee Print No. 95-30, which includes all the pollutants controlled by present pretreatment regulations. Information on how removal allowance may be obtained can be found in the General Pretreatment

Regulations, 40 CFR Part 403, 43 FR 22736 (June 26, 1978).

IV. Technical Basis for Standards

The technical analysis upon which this regulation is based includes an identification of the principal wastewater pollutants generated by this category, a consideration of the extent to which these pollutants pass through publicly owned treatment works or are incompatible with publicly owned treatment works, and a study of the various pretreatment technologies which are available for controlling the discharge of such pollutants. Information gathered in a technical study of direct and indirect dischargers for this category was the primary basis for assessing available pretreatment technologies. Data gathered earlier in support of the direct discharge limitations under sections 301 and 304 as well as data submitted by industry were used also. The data and the analysis used in developing these limitations are summarized in Section XII. The details of these studies are set forth in the "Development Document for Existing Source Pretreatment Standards for the Electroplating Point Source Category" (the Development Document).

V. Upset and Net-Gross Provisions

The Upset provision contained in this regulation was modeled after § 122.14(1) of the National Pollutant Discharge Elimination System (NPDES) regulations, 40 CFR Part 122. An explanation of § 122.14(1) is contained in the preamble to the NPDES regulations, 44 FR 32863 (June 7, 1979). The primary difference between the two regulations is that in the electroplating pretreatment regulation an Industrial User must submit notice of an upset to its POTW and Control Authority. In the NPDES regulation, a direct discharger notifies the Regional EPA Administrator or the Director of the State water pollution control agency of an upset.

The net-gross provision contained herein was modeled after § 122.16(e) and (f) of the NPDES regulations. An explanation of § 122.16(e) and (f) is contained in the preamble to the NPDES regulations, 44 FR 32865 (June 7, 1979). The primary difference between the two regulations is procedural: Industrial Users apply to EPA for net-gross credits within sixty days after the applicable categorical pretreatment standard is promulgated, whereas direct dischargers apply for credits at the time they apply for NPDES permits. For purposes of this provision, no net-gross credit shall be given for pollutants found in city water even if the water originates from the same source to which the User's POTW discharges.

VI. Monitoring Requirements

The Agency is specifying self-monitoring requirements as a part of the regulation for this category. The meaning of "average performance" is also detailed and provision is made for calculating performance requirements as a function of the number of samples taken during the sample period.

The self-monitoring frequently required for individual dischargers is a function of the plant's electroplating wastewater discharge. The minimum self-monitoring frequency requirement varies from once per month for plants discharging less than 38,000 liters (10,000 gallons) per day to three times per week for plants discharging more than 950,000 liters (250,000 gallons) per day. The minimum self-monitoring frequency requirements were set to minimize economic impacts while maximizing the control of discharges.

As a part of the Agency's approach to self-monitoring, the Agency is also defining average performance requirements. The Agency originally had proposed daily maximum limitations and 30 day average limitations. Comments from both dischargers and publicly owned treatment works operators indicated a great deal of uncertainty as to the application of the 30 day limitation and the associated self-monitoring cost. Since the self-monitoring requirements are now part of the regulation and do not require self-monitoring for 30 consecutive days, a great deal of attention was directed to defining "average limitations". The new mechanism for determining average limitations makes the average limitation a function of the number of samples included in the average. This approach is consistent with the statistical method used for determining the limitations and with the statistical principle that the fewer the number of measurements in a sample, the more variable will be the average of the measurements. Mathematically, the standard deviation of sample means is inversely proportional to the square root of the number of measurements in the sample. A table has been provided to allow the POTW and the discharger to calculate an appropriate average limitation for each pollutant for any number of individual self-monitoring samples.

Some commenters asked that average limitations be eliminated entirely. This alternative was rejected because it would lessen the extent of real control over the operation of the treatment systems. It is axiomatic that an average is more representative of the overall operation of any system than is a single measurement. Statistically, the more measurements in an average, the greater the "power" of statistical tests. From a regulatory standpoint it is desirable to develop measures of plant performance with the maximum power or statistical usefulness in drawing conclusions about the overall performance of the system.

Average limitations calculated through use of the table provided in the regulation are of equal stringency. Thus, a treatment system capable of meeting the average limitation for thirty samples should also meet a limitation calculated on the basis of six samples.

The method developed for calculating average limitations for numbers of samples can be used by the POTW, State, or municipality to develop local limitations. At a minimum, the local control authority must set average limitations based on the minimum number of self-monitoring samples required to be taken per month. In addition, the local authority and the discharger must calculate and apply average limitations based on the actual number of samples taken per month. If the discharger chooses to take more samples than the minimum number required, then he must report all samples and meet limitations based on the actual number of samples.

VII. Economic Impact Analysis

Executive Order 12044 requires EPA and other federal agencies to perform regulatory analyses of certain regulations, 43 FR 12661, March 23, 1978. EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major significant regulations involving annual compliance costs of $100 million or more, or meeting other specified criteria, 43 FR 29891, July 11, 1978. When these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and an evaluation of regulatory alternatives, such as: 1) alternative types of regulations; 2) alternative stringency levels; 3) alternative timing; and 4) alternative methods of ensuring compliance.

Section 6(b) (6) of Executive Order 12044 exempts from the requirements of the order regulations "that are issued in response to an emergency or which are governed by short-term statutory or judicial deadlines." The pretreatment standards for electroplaters are subject to a court ordered requirement of promulgation by May 15, 1977, *NRDC* v. *Train*, 8 ERC 2120 (D.D.C. 1976). Further delay in the promulgation of these standards would not be in the interest of

the environment or the Nation, and would subject the Agency to a possible citation for contempt of court. Accordingly, the pretreatment standards for existing sources in the electroplating point source category are exempt from a formal Regulatory Analysis, as decided by the Director of the Office of Analysis and Evaluation. Nonetheless, this rulemaking satisfies most of the substantive requirements for a Regulatory Analysis. Although the Clean Water Act does not require consideration of alternative timing, or alternative methods of ensuring compliance, EPA has considered alternative stringency levels, and alternative types of regulations. Moreover, the Agency has performed a detailed analysis of the economic impacts of the regulation. A complete description of the analysis is set out in a report entitled "Economic Analysis of Pretreatment Standards for Existing Sources in the Electroplating Point Source Category" (August, 1979). This document is available on request from Ms. Sandra Jones, Office of Analysis and Evaluation (WH-586), U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460.

(a) Background.—The primary financial data for this analysis were supplied by respondents to surveys of over 11,000 establishments identified as engaged in electroplating operations by Dun & Bradstreet lists, Underwriters Laboratories lists, or in the subscription list of a major trade journal. Over 2,100 responses to these surveys were coded for analysis by a computer program to determine the impacts of compliance with the regulations on the respondents' short-term viability and long-term profitability.

The computer program was used to compare the investment requirements for compliance, and associated annual costs, with balance sheet and income statement information to determine the projected financial status of the plants after all compliance requirements had been met. If the plant's estimated profitability, after compliance, was negative, or if the projected debt retirement burden, after investment, was too high to be paid out of the annual cash flow, the computer analysis indicated that the plant was a candidate for closure.

To guide the choice of parameters and assumptions for the economic analysis, the Agency and its contractors consulted with bankers, equipment suppliers, municipal government officials, economic development experts, municipal treatment works officials, professional groups, and electroplaters in three communities where pretreatment ordinances similar to EPA's proposed regulations were in effect. The communities were: Grand Rapids, Michigan; Muncie, Indiana; and Waterbury, Connecticut.

Although the data gathered in these three cities were not intended to verify the economic analysis of the national impacts of the pretreatment standards, they did indicate that the assumptions used in the analysis were substantially correct. A full description of the Agency's findings in the three cities is presented in a report entitled "Analysis of Economic Impacts of Pretreatment Ordinances on the Metalfinishing Industry in Three Communities" (October 21, 1977). This document is available on request from Ms. Sandra Jones, Office of Analysis and Evaluation (WH-586), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

(b) Coverage of the regulations.—These pretreatment standards for plants discharging to publicly owned treatment works (POTW) apply to three groups of electroplating operations: 1) Independent shops performing the metal finishing processes covered by the regulations as their primary line of business (job shops); 2) Independent manufacturers of printed circuit boards (printed board manufacturers); and 3) Captive establishments performing the regulated processes as part of the manufacture of some product by the same firm (captive shops). Summary statistics on the job shops, printed board manufacturers, and captive shops that discharge to publicly owned treatment works are presented in Table 1 below. For captive shops, which do not sell their services to other firms, the average value added by metal finishing is shown in place of sales.

Table 1.—*Summary Characteristics of the Three Industry Sectors (Indirect Dischargers)*

	Job shops	Printed board manufacturers	Captive shops
Number of Plants	2,734	327	4,722
Total Employment (1,000's)	62.8	20.6	2,930
Total Production Employment (1,000's)	46.8	11.9	87.0
Total Sales (million of dollars per year)	1,889	494	5,077
Total Process Water Flow (million gallons per day)	86.3	6.1	1,163

Table 1 shows the preponderance, among indirect dischargers, of production employment, value of metal finishing services, and process water flow, in the captive sector of the industry.

(c) Costs. The economic analysis considers two cost components. The first is the capital cost, or the amount of investment required for installation of pollution control equipment to comply with the regulations. Capital cost estimates are based on the total cost of equipment that the Agency estimates will enable a discharger to meet the pretreatment standards, including the planning required to design a treatment system, and the installation of the system itself. To the extent that there are other less expensive systems, not considered by the Agency, that will achieve the same treatment levels at less cost, the Agency's estimated capital costs are an overstatement of the capital outlays that dischargers in the industry will face. Capital costs shown here are based on extensive observation of equipment in place in the industry, and on manufacturers' quotations for design, supply and installation of treatment equipment.

The second relevant cost component is the total annual cost of compliance for each plant. The annual cost is the sum of all the outlays required in each year for operation and maintenance (O&M) of the pollution control system, sludge disposal, energy usage associated with the operation of the system, and principal and interest payments on the initial investment. The annual costs shown below are adjusted for the tax reductions associated with reduced profitability of the plant.

Table 2 presents the estimated total capital and annual costs of compliance with the regulations, for all indirect dischargers in each of the three sectors described above, and for all indirect dischargers in the electroplanting point source category. These costs represent the increments between reported levels of treatment in the industry and levels required by the pretreatment standards. In Table 2, and throughout this report, all costs are expressed in 1976 dollars.

Table 2.—*Estimated Capital and Annual Costs of Compliance*

[In thousands of dollars]

	Capital cost	Annual cost
Job Shops	$187,600	$62,500
Printed Board Manufacturers	18,500	6,800

Table 2.—*Estimated Capital and Annual Costs of Compliance*—Continued

[In thousands of dollars]

	Capital cost	Annual cost
Captive Shops	1,134,400	424,600
Total All Regulated Facilities	1,340,500	493,900

As Table 2 demonstrates, a large proportion of the capital and annual cost of compliance is incurred in the captive sector of the industry. Captive shops are projected to spend more than five times the amounts required of all independent shops combined, for both the initial investment in equipment and the subsequent annual costs of compliance. This disparity reflects the much larger flows from production processes in captive plants, and the consequent higher average cost of installation of larger tanks and treatment facilities. The average estimated capital cost for captive shops is $240,000, and the average estimated capital cost for job shops is $87,400.

(d) Impacts on the Job Shop Sector. Independent metal finishing job shops may suffer significant adverse economic impacts as a result of the regulations. EPA estimates that 587 metal finishing job shops, employing 9,653 workers, may close as a result of the regulations. This represents 19.9 percent of the job shops in the industry (21.5 percent of the indirect dischargers), and 13.9 percent of the employment in the job shop sector (15.4 percent of employment in job shops that discharge to publicly owned treatment works).

Industry has criticized certain assumptions used in EPA's economic model, claiming that if more realistic assumptions were made, closure rates in the job shop subcategory would be between 30 percent and 60 percent or higher. These estimates were derived by selectively changing assumptions which industry argues minimize closures while ignoring others which maximize closures. Moreover, industry estimates do not consider the potential effect of SBA loans, which could reduce closures in the job shop subcategory to as low as 5.4 percent.

EPA's economic model, like all models, is a simplification of reality to allow an estimation of economic impacts. The 19.9 percent closure rate EPA estimates is an approximation, not a "worst case" outside limit. Nevertheless, due to the use of some very conservative assumptions and the enormous potential impact of SBA assistance, which EPA did not even consider in its model, there is no reason to conclude that real world closures will be as high as those predicted by industry.

Because of the wide variety of products plated, the proportion by which production in the industry might decline as a result of the regulation would have little meaning. The 587 plants that are projected possibilities for closure, however, represent $251 million in sales, 12.4 percent of estimated sales for all job shops (13.3 percent of the sales of indirect dischargers). The job shops projected to close account for only four percent of the profits before tax generated by indirect dischargers in the job shop sector, although profits in plants that do not close will also decline, in the short run, as a result of compliance with the regulations.

The average price of electroplating services from job shops is expected to rise by approximately 7.0 percent as a result of the regulations.

(e) Impacts on the printed board manufacturers.—The impacts of the regulations on the manufacturers of printed circuit boards are not expected to be as great as on the job shops. The Agency estimates that 10 manufacturers of printed circuit boards, employing 321 workers, may close. These plants are 2.5 percent of all printed circuit board manufacturers (3.1 percent of the printed circuit board indirect dischargers), and represent 1.3 percent of employment in this sector (1.6 percent of employment in printed board plants that discharge to publicly owned treatment works).

The price of printed circuit boards is expected to rise by approximately 1.7 percent as a result of the increase in production costs caused by the treatment requirements of the regulations.

(f) Impacts on captive shops.—Captive shops in the industry are not expected to suffer severe adverse impacts from the regulations. None of the plants where metal finishing operations occur is projected to close as a result of the regulation; however, captive plating lines in as many as 140 plants may be shut down, as the plants turn to job shops for their supply of plating services. These 140 plants employ approximately 2,610 metal finishing workers, or about 2.2 percent of the wet metal finishing employees in the captive sector (3.0 percent of employees in captive shops that are indirect dischargers).

The final cost of production of those products produced by firms with captive operations is expected to rise by one percent or less as a result of the regulations.

(g) Combined impacts of the regulations.—It is difficult to combine most of the impacts described above into a single set of statistics that would express the effects of the regulations on the electroplating point source category as a whole. Potential plant closures, for instance, are meaningful as a measure of impact only for independent job shops and printed board manufacturers. One parameter that can be used to judge the aggregate impacts of the regulation is the percentage employment loss for the industry as a whole. The total number of jobs that may be affected is 12,584. This represents 5.9 percent of the 214,000 estimated employees in the category. There are 94,000 total employees in the independent firms plus 120,000 metal finishing employees in the captive shops. Among indirect dischargers, the projected employment impact is 8.6 percent of 146,000 jobs.

(h) Limits of the analysis.—The discussion above has mentioned some of the limitations, such as the difficulty of estimation of production impacts, that are inherent in the economic analysis of the electroplating industry. Beyond these, there are two major drawbacks to the plant-level financial analysis performed by the Agency. They are in the estimation of employment and price effects.

The Agency's estimate of employment impact due to the regulation is based on the employment represented by the plants that are projected to close. Because the Agency's analysis concentrates on the ability of individual plants to bear the costs of compliance, it cannot compare market equilibrium price and production levels before and after compliance. Therefore, the Agency cannot predict the growth effects on plants that successfully comply with the pretreatment standards.

In the past, however, the demand for electroplating services has appeared to be extremely price inelastic, and growing, because of the small percentage of cost of production that electroplating represents for all of the products that require metal finishing, and because of the lack of alternatives to the metal finishing production step. This strong demand suggests that the customers of any plating shops that close are likely to turn to suviving metal finishers for their plating services, and that these finishers will increase production and employment in response to their new customers' requests. Any increase in employment due to this process will reduce the net employment loss in the industry below the gross projected employment losses described above.

Because electroplating represents only a small portion of the final product cost, the price increases described above are overstatements of the percentage

increases in the prices of the finished goods. The cost of plating does not exceed 6 percent of the aggregate cost of production in any manufacturing sector. This means that an increase of 7.0 percent in plating costs, as projected above for job shops, translates into an increase of less than 0.5 percent in the prices of the products that job shops plate.

(i) SBA financial assistance.—All of the estimated impacts of the regulations on job shops and printed circuit board manufacturers can be dramatically reduced by federal financial assistance programs for small business. The plant closures projected in the economic analysis result from the unavailability of long-term financing and high commercial interest rates, which lead to annual carrying costs on loans which are larger than can be supported by the plants' annual cash flow. SBA Economic Injury Loans, for which almost all electroplating job shops qualify, are available at interest rates substantially below commercial rates, and for periods up to 30 years. Details of the SBA loan program are presented in Section XI of this document.

To test the effect of Economic Injury Loans, EPA reestimated the impacts of the regulations, assuming availability of 20-year loans (to correspond to the average lifetime of pollution abatement equipment), at an interest rate of 6.75 percent. This sole change in the assumptions of the analysis reduced the projected closures in the job shop sector from 19.9 to 5.4 percent of the firms, and projected employment loss from 13.9 to 6.7 percent of the jobs. In absolute terms, SBA loans could reduce the number of projected job shop closures from 587 to 148, and the estimated employment loss in the job shop sector from 9,653 to 4,670.

The economic impacts of these pretreatment standards clearly depend in large measure on the effective delivery of Economic Injury Loans to electroplaters. The Environmental Protection Agency has worked closely with the SBA to ensure that these loans are delivered expeditiously. Future efforts to facilitate the delivery of SBA loans will include the expansion of a current memorandum of understanding with SBA adding specific references to steps that will be taken to aid electroplaters. In addition, the Agency is examining private sources of expertise in SBA programs to develop a mechanism for dissemination of information about the Economic Injury Loan Program and to provide all assistance necessary to secure prompt delivery of investment capital to eligible electroplating firms.

VIII. Environmental Considerations

The Electroplating Point Source Category consists of an estimated 9400 firms discharging effluent from metal finishing processes either directly to the Nation's waters or indirectly through publicly owned treatment works (POTWs). Of these, an estimated 6600 discharge approximately one billion gallons a day of metal finishing process water to publicly owned treatment works and are covered by these pretreatment standards.

The pollutants discharged by these plants include the following substances toxic to human beings and aquatic organisms: cadmium, lead, chromium (both hexavalent and trivalent), copper, nickel, zinc, silver, and cyanide. These pollutants are only partially removed by municpal treatment systems and pass through to the Nation's waters in varying degrees. The fraction of the metals that does not pass through the municipal system concentrates in the municipal sludge where it hampers the use of the sludge as fertilizer and soil conditioner. These pollutants can also interfere with the efficient operation of the publicly owned treatment works.

The Nation's water quality will be improved by these standards. Cities that have promulgated and enforced similar regulations on metal finishers in the past report substantial reductions in toxic pollutants.

Environmental considerations are discussed in more detail in the section entitled Technical Summary and Basis for Regulations under subsection (2)(ii) of Section XII below entitled, "Origins and Characteristics of Wastewater Pollutants."

IX. Availability of Documents

The EPA technical and economic reports which support this regulation are available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., S.W., Washington, D.C. 20460, at all EPA Regional Offices, and at State Water Pollution Control Offices.

Copies of the technical development document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis document will be available through the National Technical Information Service, Springfield, Virginia 22151.

X. Compliance Schedule

Section 307(b) of the Clean Water Act specifies "a time for compliance not to exceed three years from the date of promulgation" of the standard. Because of the high projected economic impact of these pretreatment standards, the Agency believes that the maximum compliance deadline as set forth in section 307(b) should apply. The time for compliance with these categorical pretreatment standards will thus be three years from the effective date of these regulations. States or local governments may wish to adopt the substantive pretreatment standards and make these standards part of the state laws or local ordinances.

XI. Small Business Administration Financial Assistance

The analysis of the economic impact of these pretreatment standards indicates that Small Business Administration (SBA) financial assistance could significantly reduce the adverse impact of these standards. EPA estimates that the projected closure rates for metal finishing job shops of 19.9 percent could possibly be reduced to 5.4 percent by the use of available SBA loan programs by firms that meet applicable criteria. This would prevent the closing of 439 firms and loss of 4,923 jobs. The Agency has been working with the Small Business Administration to insure that these benefits of fewer closures will be realized. The intent of this work has been to make sure that all firms that must comply with these pretreatment standards and that are eligible for SBA assistance will be helped without undue delay.

There are two SBA programs that may be important sources of funding for the Electroplating Point Source Category. They are the SBA's Economic Injury Loan Program and Pollution Control Financing Guarantees.

Section 8 of the Federal Water Pollution Control Act (FWPCA) authorizes the SBA, through its Economic Injury Loan Program, to make loans to assist any small business concern in effecting additions to or alterations in equipment, facilities, or methods of operation, in order to meet water pollution control requirements under the FWPCA if the concern is likely to suffer a substantial economic injury without such assistance. This program is open to firms of 250 or fewer employees and in some instances to firms employing up to 1000 employees. Thus, this program is open to essentially all independent job shops in the Electroplating Point Source Category. Loans can be made either directly by SBA or through a bank using an SBA guarantee of ninety percent of the loan. The interest on direct loans depends on the cost of money to the federal

government and is currently set at 7⅜ percent. Loan repayment periods may extend up to thirty years depending on the ability of the firm to repay the loan and the useful life of the equipment. SBA loans made through banks are at somewhat higher interest rates and are currently at 11¼ percent.

Analyses by the Environmental Protection Agency indicate that many firms in the Electroplating Point Source Category would be eligible for direct and indirect SBA loans. For further details on the Federal loan program write or telephone any of the following individuals at EPA Headquarters or in the ten EPA Regional offices:

Coordinator—Mr. Sheldon Sacks, Environmental Protection Agency, Financial Assistance Coordinator, Office of Analysis & Evaluation (WH-586), 401 M Street SW., Washington, D.C. 20460, Telephone: (202) 755-3624.

Region I—Mr. Glenn John, Environmental Protection Agency, J. F. Kennedy Federal Office Building, Room 2203, Boston, Massachusetts 02203, Telephone: (617) 653-6570.

Region II—Mr. Gerald DeGaetano, Air & Environmental Applications Section, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007, Telephone: (212) 264-4711.

Region III—Mr. Chuck Sopp, Environmental Protection Agency, Curtis Building, 3EN40, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Telehone: (215) 597-9433.

Region IV—Mr. John Hurlebaus, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone: (404) 881-4793.

Region V—Mr. Chester Marcyn, Contingency Plan Coordinator, Surveillance and Analysis Branch, Enforcement Division, Environmental Protection Agency, 536 South Clark Street, Chicago, Illinois 60605, AC (213) 353-2316.

Region VI—Ms. Jan Horn, Attorney, Water Enforcement Division, Water Division, Environmental Protection Agency, 1st International Building, 1201 Elm Street, Dallas, Texas 75270, Telephone: (214) 767-2760.

Region VII—Mr. Donald Sandifer, Engineering Branch, Water Division, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, Telephone: (816) 374-2725.

Region VIII—Mr. Gerald Burke, Sanitary Engineer, Office of Grants, Water Division, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203, Telephone: (303) 837-3961.

Region IX—Ms. Linda Powell, Permits Branch, Enforcement Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94111, Telephone: (415) 556-3450.

Region X—Mr. Dan Bodien, Special Technical Advisor, Enforcement Division, Environmental Protection Agency, 1200 6th Avenue, Seattle, Washington 98101, Telephone: (206) 442-1270.

Headquarters—Mr. Donnel Nantkes, Legal Counsel, Grants Contracts and General Administration Division, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 426-8830.

Interested persons may also contact the Assistant Regional Administrators for Finance and Investment in the Small Business Administration Regional offices for more details on Federal loan assistance programs. For further information, write or telephone any of the following individuals:

Region I—Mr. Russell Berry, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 60 Batterymarch, 10th Floor, Boston, Massachusetts 02203, Telephone: (617) 223-3891.

Region II—Mr. John Axiotakis, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 26 Federal Plaza, New York, New York 10007, Telephone: (212) 264-1452.

Region III—Mr. David Malone, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 1 Bala Cynwyd Plaza, 231 St. Asapas Road, West Lobby, Suite 646, Bala Cynwyd, Pennsylvania 19004, Telephone: (215) 596-5962.

Region IV—Mr. Merritt Scoggins, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 1401 Peachtree Street, N.E., Atlanta, Georgia 30309, Telephone: (404) 881-2009.

Region V—Mr. Larry Cherry, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 219 South Dearborn Street, Chicago, Illinois 60604, Telephone: (312) 353-4533.

Region VI—Mr. Donald Beaver, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 1720 Regal Row, Suite 230, Dallas, Texas 75202, Telephone: (214) 749-1265.

Region VII—Mr. Richard Whitley, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 911 Walnut Street, 23rd Floor, Kansas City, Missouri 64106, Telephone: (816) 374-3927.

Region VIII—Mr. James Chuculate, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 1405 Curtis Street, Executive Tower Building—22nd Floor, Denver, Colorado 80202, Telephone: (303) 327-3988.

Region IX—Mr. Charles Hertzberg, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 450 Golden Gate Avenue, San Francisco, California 94102, Telephone: (415) 556-7782.

Region X—Mr. Jack Welles, Regional Administrator for Finance and Investment, Small Business Administration, 710 2d Avenue, Dexter Horton Bldg.—5th floor, Seattle, Washington 98104, Telephone: (206) 399-5679.

In addition to the Economic Injury Loan Program, the Small Business Investment Act, as amended by Public Law 94-305, authorizes SBA to guarantee the payments on qualified contracts entered into by eligible small businesses to acquire needed pollution facilities when the financing is provided through taxable and tax-exempt revenue or pollution control bonds. This program is open to all eligible small businesses including electroplating and metal finishing firms. Bond financing with SBA's guarantee of the payments makes available long term (20-25 years), low interest (usually 5 to 7 percent) financing to small businesses on the same basis as that available to larger national or international companies. For further details on this program write to the SBA, Pollution Control Financing Division, Office of Special Guarantees, 1815 North Lynn Street, Magazine Bldg., Rosslyn, Virginia 22209, (703) 235-2900.

XII. Technical Summary and Basis for Regulation

This section summarizes the basis for pretreatment standards for existing sources in the electroplating point source category.

(1) General methodology

The pretreatment standards were developed in the following manner: The point source category was first studied to determine whether separate standards were appropriate for different segments within the category. The raw waste characteristics for each such segment were then identified. This included an analysis of: the source, flow, and volume of water used in the process employed; the sources of waste and wastewaters; and the constituents of all wastewater. The compatibility of raw waste characteristics with municipal treatment works was then considered. Wastewater constituents suspected of passing through or interfering with publicly owned treatment works were identified.

The Agency identified the control and treatment technologies existing within each segment. This included identification of each distinct control and end-of-pipe treatment process which exists or is capable of being designed for each segment. It also included a determination of the effluent quality resulting from the application of each of the technologies in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants. The problems, limitations, and reliability of each treatment and control technology were identified. The Agency additionally studied the non-water quality environmental impacts, of such technologies upon other pollution problems, including air, solid waste, noise, and radiation. The energy requirements of each control and

treatment technology as well as the capital cost and the other annual costs to operate and maintain the installed technology, were determined.

The information, as outlined above, was then evaluated to determine the appropriate levels of technology. In identifying such technologies, the Agency considered various factors. These included the total cost of application of technology, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impacts (including energy requirements), and other factors.

The data upon which the above analysis is based included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

(2) Summary of technical analysis

(i) Subcategorization. Previous regulations for the electroplating point source category subcategorized the industry on the basis of the processes employed. Electroplating was separated from electroplating-related metal finishing processes because electroplating always requires the action of an electrical current to deposit a metallic coating on the basis material. Electroplating-related metal finishing processes may not require a current and may or may not deposit a metallic coat on the basis material. The processes of anodizing, conversion coating, chemical etching and milling are different enough to warrant separate subcategories. Anodizing, usually performed on aluminum, converts the surface of the object to the metal oxide. Conversion coating refers principally to chromating and phosphating. Each of these processes chemically forms a thin protective coat on the treated object. An electrical current may or may not be applied. Chemical etching and milling involve the dissolution of the basis material.

In restudying the industry for the purpose of establishing pretreatment regulations, the Agency decided that printed circuit board manufacturing and electroless plating also warrant separate subcategorization because of the unique mixture of electrolytic and electroless plating operations found in these processes. Additionally, these processes produce pollutants which may render normal waste treatment techniques ineffective if proper safeguards are ignored. Finally, this subcategorization is consistent with the existing structure of the industry, each subcategory tending to be oriented toward individual processes or identifiable markets which do not overlap significantly.

Separate analyses were conducted for the common metals, precious metals, electroless, and printed circuit board subcategories. For the concentration-based limitations, no significant differences were found between these subcategories. Accordingly, the limitations for these subcategories are identical, with the exception of silver in the precious metals subcategory. Since differences in water use were found between several subcategories, the optional-mass based standards are different in several of these subcategories. The details of this analysis are given in the Development Document.

(ii) Origins and characteristics of waste water pollutants. Wastewater from this industry comes from pretreatment and post treatment operations as well as the actual metal finishing and electroplating steps. The known significant pollutants and pollutant properties from these operations include pH, total suspended solids, cyanide, chromium, copper, nickel, zinc, cadmium, lead, aluminum, and various precious metals and organic compounds. The present study indicates that many of these pollutants may occur together and that their individual concentrations may exceed 100 mg/l.

Wastewater results from the following operations in this industry: (1) rinsing to remove films of processing solution from the surface of work pieces at the site of each operation, (2) rinsing away spills, (3) washing the air that passes through ventilation ducts so as to remove spray from the air before it is exhausted, (4) dumping of spent solutions, (5) washing of equipment, and (6) discharging cooling water used in heat exchangers to cool solutions in metal finishing processes. Approximately 90 percent of the water consumed is in rinsing. That used as cooling water is usually recycled for rinsing. Plating solutions that are dumped should be slowly trickled into the rinse waters prior to treatment.

Many of the pollutants which are generated are toxic pollutants which have potential for environmental or POTW damage. Since none of the metals are destroyed when introduced into a POTW, they either pass through to the POTW effluent or concentrate in the POTW sludge. Cyanide also can pass through a POTW, and both cyanide and the metals can interfere with the POTW treatment processes. The problems associated with the toxic pollutants are as follows:

Inhibition of POTW Processes

All of the metals and cyanide are known to inhibit the operations of a POTW at sufficiently high concentrations. Threshold process influent concentrations for inhibition of activated sludge processes as given in the Federal Guidelines for State and Local Pretreatment Programs (EPA–430/9–76–017) are as follows:

Pollutant	Conc. (mg/l)
Cd	10–100
CN,T	0.1–5
Cr,VI	1–10
CR,III	50
Cu	1
Ag	5
Pb	0–1
Ni	1–2.5
Zn	0.08–10

For anaerobic digestion and nitrification processes, the threshold inhibition concentrations differ. In the case of nitrification processes especially, the threshold numbers are usually lower.

Limitation of Sludge Use

Since the metals are not destroyed, that fraction which does not pass through the POTW is incorporated into sludge. Depending on sludge disposal methods, these metals could contaminate the air, the water, or in some cases enter the human food chain. In addition, sewage sludge is a valuable solid conditioner with about 30 percent currently being applied to land (about half of this amount to agricultural cropland, the remainder to golf courses, nurseries, home lawns and gardens, etc.). Land application is, in general, the least expensive and most environmentally beneficial use of sludges. Metal contamination of sludge can have various effects which limit the amount of sludge which can be applied to cropland. These effects are described below. Concentrations in sludge were taken from Appendix VII, page 7, of "Municipal Sludge Management: Environmental Factors" (EPA 430/9–77–004). Food and Drug Administration (FDA) recommendations for cadmium and lead are summarized in Appendix IX of the same reference. Unless noted otherwise, data on soil levels of these metals and discussion of adverse effects on crops are based on information contained in "Considerations Relating to Toxic substances in the Application of Municipal Sludge to Cropland and Pastureland" (EPA 560/8–76–004) and "Application of Sewage Sludge to Cropland: appraisal of Potential Hazards of the Heavy Metals to Plants and Animals" (EPA 430/9–76–013).

Cadmium—A study of 189 sewage sludges showed that sewage sludge contains 3 to 3410 mg/kg (dry basis) of cadmium (mean = 110 mg/kg; median = 16 mg/kg). These concentrations, are significantly greater than those normally found in soil (0.01 to 7 mg/kg, with 0.06 mg/kg being the mean). Data show that cadmium can be incorporated into crops, including vegetables and grains, from contaminated soils. Although the crops themselves show no adverse effects from soils with levels up to 100 mg/kg cadmium, these contaminated crops could have a significant impact on human health.

Three federal agencies have already recognized the potential adverse human health effects posed by the use of sludge on cropland. The FDA recommends that sludges containing cadmium concentrations over 20 mg/kg should not be used on agricultural land. The Department of Agriculture (USDA) also recommends limitations on the total cadmium from sludge that may be applied to land. Under Section 4004 of Resource Conservation and Recovery Act (RCRA), the EPA will shortly promulgate limits on the amount of sludge that can be landspread, based on annual and cumulative cadmium application rates. Under Section 405 of the Clean Water Act, additional restrictions will be placed on sludge for home use, based on cadmium content. All these federal restrictions are designed to prevent excessive cadmium additions to the human diet.

Chromium—A study of 180 sewage sludges showed that sewage sludge contains 10 to 99,000 mg/kg (dry basis) of chromium (mean = 2620 mg/kg; median = 890 mg/kg). Most crops absorb relatively little chromium even when it is present in high levels in soils, but chromium in sludge has been shown to reduce crop yields in concentrations as low as 200 mg/kg.

Copper—A study of 205 sewage sludges showed copper levels of 84 to 10,400 mg/kg, with 1210 mg/kg as the mean value and 850 as the median value. These concentrations are significantly greater than those normally found in soil, which usually range from 18–80 mg/kg. Copper toxicity may develop in plants from application of sewage sludge contaminated with copper. Livestock have been poisoned by eating plants contaminated with copper.

Lead—A study of 189 sludges showed lead levels ranging from 13 to 19,700 mg/kg (dry basis) (mean=1360 mg/kg; median=500 mg/kg). Since the normal range of lead content in soil is from 2 to 200 mg/kg, application of contaminated sewage sludge to the soil will generally increase the soil's lead content.

Data indicate that the application to cropland of sludge containing excessive lead levels may increase the lead concentration in crops grown on acid soils. Generally, roots accumulate more lead than do plant tops. For above ground crops, significant impacts can occur when sludge is applied as a surface dressing while crops are growing. In light of the potential human health effects, the FDA has recommended that sludge containing more than 1000 mg/kg of lead should not be used on agricultural land for crops used directly in the food chain.

Nickel—A study of 165 sludges showed nickel concentrations ranging from 2 to 3520 mg/kg (dry basis), with a mean of 320 mg/kg and a median of 82 mg/kg. Nickel toxicity may develop in plants from application of sewage sludge on acid soils. Nickel reduces yields for a variety of crops including oats, mustard, turnips, and cabbage.

Zinc—Data from 208 sludges show a zinc range of 101 to 27,800 mg/kg (dry basis), with a mean of 2790 mg/kg and a median of 1740 mg/kg.

These concentrations are significantly greater than those normally found in soil, with observed values of 10 to 300 mg/kg, with 50 mg/kg being the mean. Therefore, application of sewage sludge to soil will generally increase the concentration of zinc in the soil. Zinc can be toxic to plants, depending upon soil pH. Lettuce, tomatoes, turnips, mustard, kale, and beets are especially sensitive to zinc contamination.

Examples of effects of pretreatment on sludge quality. Pretreatment programs have been effective in reducing metals concentrations in sludge. Three examples are cited below.

Buffalo, New York: Sludge concentration (mg/kg—dry basis).

Pollutant	Before pretreatment (actual)	After pretreatment (projected)
Cd	100	50
Cr	2,540	1,040
Cu	1,570	330
Pb	1,800	605
Ni	315	115
Zn	2,275	364

Grand Rapids, Michigan: Sludge concentration (mg/kg—dry basis).

Pollutant	Before pretreatment (actual)	After pretreatment (actual)
Cr	11,000	2,700
Cu	3,000	2,500
Ni	3,000	1,700
Zn	7,000	5,700

Muncie, Indiana: Sludge concentration (mg/kg—dry basis).

Pollutant	Before pretreatment (actual)	After pretreatment (actual)
	(1972)	(1978)
Cd	23	9.5
Cr	2,000	675
Ni	8,500	150
Zn	5,800	2,700
Pb	8,500	1,000
Cu	1,750	700

Pass Through and Effects on Receiving Water

None of the pollutants are completely removed from wastewater by average POTWs; part of the pollutant load passes through to the POTW effluent and subsequently contaminates the receiving water. Pass through data and some of the effects on receiving water are summarized below. Data on pass through were calculated (as 100 percent minus percent removal) from the removability data given on page 6–45 of "Federal Guidelines: State and Local Pretreatment Programs" (EPA 430/9–76–017b). POTW effluent data were taken from pages 6–39 to 6–41 of the same reference.

Cadmium—Data from 110 POTWs show that 75 percent of the primary plants, 57 percent of the trickling filter plants and 66 percent of the activated sludge plants allowed over 90 percent of the influent cadmium to pass through to the POTW effluent. Only 2 of the 110 POTWs allowed less than 20 percent pass through, and none allowed less than 10 percent pass through. Data from 145 POTWs show POTW effluent concentrations ranged from 0.001 to 1.97 mg/l (mean 0.028 mg/l, standard deviation 0.167).

The cadmium which passes through the POTW to the effluent is discharged to ambient surface water. Cadmium is toxic to aquatic organisms at levels typically observed in POTW effluents. For example, the Cadmium Ambient Water Quality Criteria Document (PB–292–423) cites:

- 96 hr. LC50 for chinook salmon is reported as 0.0018 mg/l,
- 96 hr. LC50 for rainbow trout is reported as 0.0013 mg/l, and
- 48 hr. LC50 for the invertebrate cladoceran is reported as 0.007 mg/l.

Besides providing an environment for aquatic organisms, surface water is often used as a source of drinking water or irrigation water. For states with drinking water or irrigation water standards, the most common cadmium standard is 0.01 mg/l. Chronic ingestion of cadmium via drinking water and from

use of contaminated irrigation water has been documented as the cause of itai-itai disease in humans.

Cadmium has no known biological benefits for humans and is capable of causing kidney damage when present in significant amounts; there is suggestive evidence that cadmium may be a carcinogen. For these reasons, it is prudent to restrict environmental sources of cadmium as much as possible.

Chromium—The amount of chromium which passes through to the POTW effluent depends on the type of treatment processes used by the POTW. Data from 138 POTWs show that 56 percent of the primary plants allowed more than 80 percent pass through to POTW effluent. More advanced treatment reduces pass through, with median pass through values for trickling filter and activated sludge treatments being about 60 percent. Data from 179 POTWs show POTW effluent concentrations ranging from 0.003 to 3.2 mg/l total chromium (mean = 0.197, standard deviation = 0.48), and from 0.002 to 0.1 mg/l hexavalent chromium (mean = 0.017, standard deviation = 0.020).

The chromium which passes through the POTW is discharged to ambient surface water. Chromium is toxic to aquatic organisms at levels observed in POTW effluents.

- trivalent chromium significantly impaired the reproduction of *Daphnia magna* at levels of 0.3 to 0.5 mg/l (J. Fish Res. Board Can., 29: 1691, 1972).
- hexavalent chromium retards growth of chinook salmon at 0.0002 mg/l (Hanford Bio. Am. Rep., 1957)

Hexavalent chromium is also corrosive, and a potent human skin sensitizer.

Besides providing an environment for aquatic organisms, surface water is often used as a source of drinking water. Because hexavalent chromium can be reduced to trivalent chromium in the environment, and trivalent chromium can possibly be oxidized to hexavalent chromium by chlorine or other agents, the National Interim Primary Drinking Water Standards are based on total chromium, the limit being 0.05 mg/l.

Copper—In data from 156 POTWs, the median pass through was over 80 percent for primary plants and about 40–50 percent for trickling filter and activated sludge treatment plants. POTW effluent concentrations (based on data from 192 plants) ranged from 0.003 to 1.8 mg/l (mean = 0.126, standard deviation = 0.242).

The copper which passes through the POTW to the effluent is discharged to ambient surface water. Copper is toxic to aquatic organisms at levels typically observed in POTW effluents, for example:

- 48-hour LC50 for *Daphnia Magna* in soft water is 0.02 mg/l (J. Fish Res. Board Can., 29: 1972).
- 96-hour LC50 for the chinook salmon is 0.017 mg/l (Chapman, G. A., 1975. Toxicity of Copper, Cadmium, and Zinc to Pacific Northwest Salmonids. US EPA, Corvallis, OR).
- 96-hour TL50 for the fathead minnow is 0.023 mg/l (Water Pollut. Int. J. 10:453, 1966).

Lead—Data from 124 POTWs show median pass through values to be over 80 percent for primary plants. About half of the trickling filter and activated sludge plants allow over 60 percent pass through. Lead concentrations in POTW effluents (based on data from 157 POTWs) ranged from 0.003 to 1.8 mg/l (mean = 0.106, standard deviation = 0.222).

The lead which passes through the POTW to the effluent is discharged to ambient surface water. Lead is toxic to aquatic organisms at levels typically observed in POTW effluents, for example:

- 48-hour LC50 for *Daphnia magna* is 0.45 mg/l (J. Fish Res. Board Can., 29:1691).
- 48-hour LC50 for rainbow trout is 0.9 mg/l (Water Res. 2:723, 1968).

Besides providing an environment for aquatic organisms, surface water is often used as a source of drinking water. The National Interim Primary Drinking Water Regulation limit lead in drinking water to 0.05 mg/l.

The major risk of lead in drinking water is to small children, where the water is one of several sources which result in a well documented, serious problem of excess lead levels in the body. As a result of the narrow range between the lead exposure of the average American in everyday life and exposure which is considered excessive, (especially in children) it is imperative that lead in water be maintained within strict limits. The estimated maximum safe level of lead intake is 600 μg/day. Potential sources of exposure are diet, water, dust, air, etc. Levels of lead in many urban children indicate overexposure. High body levels of lead can result in serious consequences (chronic brain or kidney damage, or acute brain damage); therefore, lead in water should be limited to the lowest practicable level.

Nickel—Data from 109 POTWs indicate that nickel pass through was greater than 90 percent for 82 percent of the primary treatment plants. Median pass through for trickling filter and activated sludge plants was greater than 80 percent. Data from 149 POTWs show POTW effluent concentrations ranging from 0.003 to 40 mg/l (mean=0.411, standard deviation=3.279).

The nickel which passes through the POTW is discharged to ambient surface water. Nickel is toxic to aquatic organisms at levels typically observed in POTW effluents, for example:

- 50 percent reproductive impairment of *Daphnia magna* at 0.095 mg/l (J. Fish Res. Board Can., 29:1691, 1972).
- morphological abnormalities in developing eggs of *Limnaea palustris* at 0.230 mg/l (Bio. Bulletin 125:508, 1963).
- 50 percent growth inhibition of aquatic bacteria at 0.020 mg/l (Curr. Sci. 45:578–580, 1976).

Since surface water is often used as a drinking water source, nickel passed through a POTW becomes a possible drinking water contaminant.

Zinc—Data from 148 POTWs show the median pass through values to be 70–80 percent for primary plants, 50–60 percent for trickling filter plants, and 30–40 percent for activated sludge process plants. POTW effluent concentrations of zinc (based on data from 198 POTWs) ranged from 0.009 to 3.6 mg/l (mean=0.330, standard deviation=0.464).

The zinc which passes through the POTW to the effluent is discharged to ambient surface water. Zinc is toxic to aquatic organisms in concentrations typically observed in POTW effluents, for example:

- 96-hour LC50 for the cutthroat trout is 0.090 mg/l (Sport Fishing Abstract 13665, 1971).
- 96-hour LC50 for the chinook salmon is 0.103 508, 1963 mg/l (Chapman, G. A., 1975. Toxicity of Copper, Cadmium and Zinc to Pacific Northwest Salmonids. USEPA, Corvallis, Or).
- 48-hour LC50 for *Daphnia magna* is 0.100 mg/l (J. Fish Res. Board Can. 29:1691, 1972).

Cyanides—Cyanide may theoretically be destroyed in a POTW, but data indicate that much of it passes through to the POTW effluent. One primary plant showed 100 percent cyanide pass through, and the mean pass through for 14 biological plants was 71 percent. Data from 41 POTWs indicate the effluent concentrations range from 0.002 to 100 mg/l (mean = 2.518, standard deviation = 15.6). (If the plant with an effluent of 100 mg/l is removed from the data base as an outlier, the mean becomes 0.081 mg/l for 40 POTWs).

The cyanide which passes through to the POTW effluent is discharged into ambient surface water. There is considerable evidence documenting cyanide toxicity to aquatic organisms at levels at or below those typically observed in POTW effluents.

Cyanides are more toxic to fish than to lower aquatic organisms such as midge larve, crustaceans, and mussels. Toxicity to fish is a function of chemical form and concentration, and is influenced by the rate of metabolism (temperature), the level of dissolved oxygen, and pH. In laboratory studies free cyanide concentrations ranging from 0.05 to 0.15 mg/l have been proven fatal to sensitive fish species including trout, bluegills, and fathead minnows (EPA 600/3–76–038). Long term sublethal concentrations of cyanide as low as 0.01 mg/l have been shown to affect the ability of fish to function normally, e.g. reproduce, grow, and move freely (G. Leduc, 1966, Ph.D Thesis, Oregon State Univ., Corvallis).

Cyanide may exist as free cyanide (CN anion), hydrogen cyanide (HCN), or as a complex with metals. In the absence of metals, free cyanide and hydrogen cyanide are in an equilibrium which is highly dependent upon pH. At pH values below 7.0, over 99 percent of the cyanide is present at HCN. At pH values of 8.0, 9.0, and 10.0 the HCN percentage decreases to 93.3 percent, 58 percent and 13 percent, respectively. Since HCN is the most toxic form of cyanide, it is clear that decreasing pH (increasing acidity) results in greater toxicity. Temperature increase also results in increased toxicity (2–3 fold over 10°C), as does reduction in dissolved oxygen content.

Cyanide forms complexes with metal ions present in wastewater. All these complexes exist in equilibrium with HCN. Therefore, the concentration of free cyanide present is dependent on the pH of the water and the relative strength of the metal-cyanide complex. The cyanide complexes of zinc, cadmium and copper may dissociate to release free cyanide. Also, where these complexes occur together, synergistic effects have been demonstrated. Zinc, copper, and cadmium cyanide are more toxic than an equal concentration of sodium cyanide.

Another problem associated with cyanide pass through is possible chlorination of cyanide to highly toxic cyanogen chloride, which is subsequently released to the environment. This chlorination reaction may occur as part of the POTW treatment, or subsequently as part of the disinfection treatment for surface drinking water preparation.

Data for Grand Rapids, Michigan, show a significant decline in cyanide concentrations downstream from the POTW after pretreatment regulations were enacted. Concentrations fell from 0.06 mg/l before to 0.01 mg/l after pretreatment was required.

Silver.—Data from a recent EPA study of several POTWs show that silver treatability is quite variable, but that a significant portion of the influent silver (25 percent to 75 percent) is likely to pass through to the POTW effluent.

The Silver Ambient Water Quality Criteria Document (PB–292–441) provides the following information: The toxicity of silver to aquatic organisms has long been recognized. Dosages of 0.000001 to 0.5 mg/l of silver have been reported as sufficient to sterilize water. Various toxic effects on aquatic life have been reported. For example:

- 96-hr LC50 for rainbow trout has been reported as 6.5 μg/l to 28.8 μg/l.
- 96 hr LC50 for the water flea (*Daphnia Magna*) has been reported as 1.5 μg/l.
- Bioconcentration of silver up to 368 times has been reported.

(iii) Treatment and control technology.—The Agency has studied wastewater treatment and control technologies for this industry to determine the best practicable pretreatment technologies. This study showed that although there are differences between subcategories in the types and quantities of wastes generated, the same general treatment technologies are available to this entire industrial segement.

Electroplating wastes are typically treated by a number of sequential control techniques. General practice includes segregation and individual treatment of the wastes containing cyanide and chrome followed by the removal of metals by pH adjustment and clarification or filtration in a common treatment system. Therefore, the present pretreatment limitations for this category are based on the following control techniques: cyanide oxidation, chrome reduction, metal precipitation using pH adjustment and solids removal. For plants with process flows of less than 10,000 gallons per day, pretreatment limitations are based on removal of lead, cadmium, and cyanide only. The use of these technologies formed the basis of the pretreatment standards which are being established. However, this does not preclude the use of other wastewater treatment techniques which provide equivalent or better levels of treatment. These treatment technologies are discussed in detail in the development document.

Chrome reduction.—Reduction of hexavalent chrome to trivalent chrome is practiced widely and typically uses sulfur dioxide at a pH of approximately two.

Seventy-one plants sampled by the Agency had operating chrome reduction facilities. The number of data points from each plant varied from one to 133. The data from each plant were averaged into a single number so that all plants were considered equally. Approximately 60 percent of these plants already meet the limitations specified by the regulation.

Cyanide destruction.—Cyanide must be treated before treatment for metals removal may take place. If this is not done, soluble metal cyanide complexes will form rather than insoluble metal hydroxides.

Cyanide destruction is generally done in a two-stage oxidation treatment system using chlorine or hypochlorite. The first stage of the reaction oxidizes cyanide to cyanate, and the second oxidizes cyanate to nitrogen and carbon dioxide.

The cyanide limitation set by this regulation is based on two stage treatment and careful separation of iron, nickel, and certain other metal bearing wastes from cyanide waste treatment technologies. This latter segregation practice is standard good housekeeping procedure and is well established within the industry.

Seventy-one plants sampled during this study had cyanide oxidation facilities. The data from each plant were treated in the same manner as the data on chrome reduction. The limitations set by this regulation based on cyanide oxidation are currently achieved by approximately 60 percent of the plants sampled.

pH Adjustment.—All of the plants sampled in this study controlled pH. Typically, the pH is adjusted by adding an acid (such as hydrochloric or sulfuric) or a base (lime or caustic) to the waste stream in an agitated tank. Control of pH is achieved by adding sufficient amounts of acid or base to the waste to maintain the pH in the desired range.

Metals removal.—The adjustment of the pH of electroplating wastes to 8.0 or above causes the dissolved metals to form insoluble metal hydroxides. These compounds can be removed from the wastewater by solids separation techniques such as gravitational settling or filtration. Both methods are in general use within the industry and were used by plants sampled by the Agency. A detailed analysis of the performance of these techniques is given in the development document.

The limitations specified by this regulation are based on the Agency's assessment of the performance of the preceding technologies. This assessment includes an analysis of the variability which is inherent in the normal operation of these technologies and the procedures of laboratory analysis. The Agency estimates that consistent compliance with these limitations will require firms to achieve the following long-term averages:

Pollutant	Long-term average (mg/l)
CN,T	0.15
Cu	1.4
Ni	1.4
Cr,T	1.8
Zn	1.4
Pb	0.2
Cd	0.4
Ag	0.4
Total metals	4.2

Firms which operate close to or at the daily maximum or thirty day limitations would be expected to violate these limitations frequently.

Finally, the Agency carefully excluded data for plants which were diluting untreated or inadequately treated process waste water with nonprocess or sanitary waste. Dilution of this sort is counter to the intent of this regulation and must not be used as an aid in achieving these limitations.

(iv) Cost estimates for control of wastewater pollutants.

Cost information was obtained from industry, engineering firms, equipment suppliers, government sources, and available literature. Whenever possible the Agency used costs based on actual industrial installations or engineering estimates for projected facilities as supplied by contributing companies.

The cost information was used to estimate the cost of treatment plants for electroplating establishments of various sizes and compositions. Eighty-one model plants were used to characterize the treatment costs associated with this category. These models and a summary of the costing methodology are available for public inspection at the EPA Public Information Reference Unit, Room 2922, (EPA Library), Waterside Mall, 401 M St., S.W., Washington, D.C. 20460.

(v) Energy requirements and nonwater quality environmental impacts.

The energy costs related to the implementation of these regulations are generally limited to the electricity required for liquid transfer pumps and agitator motors.

The major non-water quality consideration associated with these pretreatment standards is the generation of metal-bearing solid wastes which must be disposed of by the industrial user. The Agency realizes that the treatment technologies will result in solid wastes with relatively high concentrations of toxic metals. However, the quantity of wastes will be significantly lower than the quantity of municipal sludge which would be contaminated by the metals in the absence of regulation and should present a less environmentally burdensome disposal problem.

The Agency has estimated the 1976 cost for disposing of these solid wastes in an environmentally safe manner to be $0.12 per gallon. However, to allow for a margin of safety, the estimate has been raised to $0.25 per gallon. This cost has been included in the cost analysis for this regulation.

No significant increase in noise, radiation, air pollution, or thermal pollution will result from the implementation of these pretreatment standards.

XIII. Summary of Public Participation

Numerous agencies and groups have participated at various stages in the development of these pretreatment standards. The Agency solicited comments when proposed pretreatment standards were published on March 28, 1974 (Phase I) and on april 24, 1975 (Phase II). Many agencies and groups were also consulted in the course of developing the proposed regulations. Similar opportunities for public participation were also provided in the related development of Phase I and Phase II regulations based upon best practicable control technology currently available. Furthermore, a public hearing on pretreatment standards for the electroplating industry was held on June 10, 1974. On December 3, 1976, the agency announced that the regulations which had been previously proposed or promulgated would be reevaluated. Since that time the Agency has reconsidered the formulation of pretreatment standards and other regulations in light of all comments which have been received. The Agency has also continued to consult with and receive comments from interested agencies and groups. Furthermore, at the request of the National Association of Metal Finishers, the Agency has released split samples of process wastewater for duplicate analysis as well as additional data on the electroplating plants that were selected for sampling and study as a basis for reevaluating the regulations. Comments were sought after the promulgation of the interim final pretreatment regulations on July 12, 1977 and additional comments were requested in conjunction with the proposal of this regulation on February 14, 1978. A public hearing was held on June 22 and June 23, 1978.

The following are the principal agencies and groups consulted in the development of regulations: (1) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (2) all State and Territorial Pollution Control Agencies; (3) Department of Interior; (4) Department of Commerce; (5) Department of Defense; (6) Department of the Treasury; (7) Water Resources Council; (8) Council on Environmental Quality; (9) Office of Management and Budget; (10) Department of Housing & Urban Development; (11) Council on Wage & Price Stability; (12) Tennessee Valley Authority; (13) Water Resources Council; (14) U.S. Post Office; (15) Nuclear Regulatory Commission; (16) Energy Research and Development Administration; (17) National Association of Metal Finishers; (18) Metal Finishers Suppliers Association; (19) American Electroplating Society; (20) Institute of Printed Circuits; (21) Alberts Plating Works, Inc.; (22) American Hot Dip Galvanizers; (23) American Society of Mechanical Engineers; (24) Hudson River Sloop Restoration, Inc.; (25) The Conservation Foundation; (26) Environmental Defense Fund, Inc.; (27) Natural Resources Defense Council; (28) The American Society of Civil Engineers; (29) Water Pollution Control Federation; (30) National Wildlife Federation; (31) American Institute of Chemical Engineers; (32) New England Interstate Water Pollution Control Commission.

Comments on the proposed regulations which were published on February 14, 1978, were received from the following: City of Detroit; Metal Finishing Suppliers' Association; Enviro-Services; U.S. Brass; Andco; City of Rockford, Illinois; Keystone Steel and Wire; Ohio EPA; City of Richmond, Virginia; Lancy Engineers; Thomas J. Rouzie, NPDES Engineer; Olin Chemical Corporation; Bob Johns, Engineer; Western Electric; New York State—Environmental Conservation; Eastman Kodak; Iowa Department of Environmental Quality; Air Transport Association; Briggs and Stratton; Cutler Hammer; Howard K. Bell; Hampton Roads Sanitary District; General Electric; Dow Corning; Hayes International Corp.; Automated Medical Systems; Xerox; Nassau County, New York; Atlantic Richfield; FCM Division—Gulf Western Industries; City of Phoenix, Arizona; Ford Motor Company;

Grimes; U.S. Department of Interior; Wald Manufacture; Utica Tool; Phelps Dodge Refining Corp.; County of Monroe, New York; Pelton & Crane; Department of Public Works, San Francisco, California; Metro District Commission, Massachusetts; Industrial Management Council; Buffalo Sewer Authority; Deere & Co.; City of Los Angeles; City of Grand Rapids; National Association of Store Fixture Manufactures; International Paper Company; Environmental Services; City of Los Angeles; Foregger Air Products; Magnavox Corporation; City of San Diego, California; Graphic Communication Industries; Westvaco Corporation; City of Milwaukee, Wisconsin; E. I. DuPont; General Motors Corporation; American Electroplaters Society; U.S. Chamber of Commerce; Natural Resources Defense Council; Plumbing Manufacturers' Institute; State of Kentucky; Digital Equipment Corporation; Chrome-Rite Company; American Iron & Steel Inst.; Ford; Department of the Army; Guzman Assoc.; Reynolds; General Telephone; Department of Commerce; National Association of Metal Finishers; Oklahoma City; New York City; Apollo Metals; Institute for Interconnecting and Packaging Electronic Circuits.

The major issues raised by these commenters following the publication of the proposed regulations are as follows:

Comment: High closure rates render the regulation impractical and unachievable.

Response: Congress realized that some businesses would close as a result of the promulgation of technology-based standards. Congress determined that long term environmental benefits were more important than short term dislocations. The Administrator has considered the costs and benefits of this regulation, as evidenced by his exemption of small platers from some requirements.

Comment: Many commenters questioned the need for national electroplating standards, preferring local limitations, at least where the local treatment works is in compliance with its NPDES permit. These commenters argued that local authorities would be more responsive to local conditions, including water quality conditions, and that local controls would avoid redundant treatment by electroplaters and the publicly owned treatment works.

Response: EPA considered the issue of local versus national standards in promulgating the General Pretreatment Regulation, 40 CFR Part 403, 43 FR 27736 (June 26, 1978). The Agency pointed out in the preamble to those regulations that many pollutants released into the nation's navigable waters are a national problem because they are persistent in the environment, bioaccumulate, and enter food chains. Moreover, a number of the pollutants discharged by industrial users of publicly owned treatment works are substances for which there is evidence of carcinogenicity, mutagenicity, or teratogenicity. Others are known to have acute toxic effects on human or aquatic organisms. Congress recognized the national scope of this problem in enacting section 307 (b)(1) of the Clean Water Act, which requires EPA to set national pretreatment standards for pollutants which interfere with the treatment works, pass through, or are otherwise incompatible with the publicly owned treatment works.

Congress also recognized the strong local interest in pretreatment standards. In Section 510 of the Clean Water Act, Congress specifically allowed states and municipalities to set limits more stringent than federal standards. However, section 510 expressly forbids any State from adopting or enforcing a standard *less* stringent than a national standard.

To avoid redundant treatment, Congress provided that under certain circumstances a publicly owned treatment works can allow local dischargers a variance from national standards to account for removal achieved by the publicly owned treatment works. The conditions under which such a variance may be obtained are described in 40 CFR 403.7, 43 *FR* 27748 (June 26, 1978).

A publicly owned treatment works' ability to meet its NPDES permit is not a sufficient reason to modify categorical pretreatment standards. Publicly owned treatment works permit limitations usually require only secondary treatment of some conventional pollutants and do not usually contain limitations on toxic and other pollutants.

Nor are satisfactory local water quality conditions a sufficient reason to modify national standards. Since many toxic industrial pollutants do not degrade but concentrate in bottom sediments, they are not acknowledged in water quality measurements. Moreover, by virtue of their persistence and bioaccumulation, toxic pollutants can concentrate downstream of local water quality measuring stations.

Comment: The data base used to establish cyanide standards is inadequate or inappropriate. Specific situations included: (1) an electroplating waste treatment facility with over capacity at the time of sampling, (2) plants with integrated waste treatment systems, (3) plants generating a very low percentage of cyanide waste, (4) treatment processes and operating levels during sampling periods were not described, (5) the extreme range of CN,A and CN,T concentrations in treated effluents, and (6) the omission of consideration of cost of spill control.

Response: (1) The Agency, in developing this regulation, sampled operating plants with a total of several hundred days of testing. Plants with underutilized and overtaxed waste treatment facilities were included unless a specific malfunction was identified. Therefore, any effects of underutilization should have been taken into account by these statistical analyses. (2) Plants with integrated waste treatment systems and those generating only a small percentage of CN waste were eliminated from the data base. (3) An extensive range of the processes used was included in this sampling program. However, plants with a very low percentage of cyanide wastewater were not included in the analysis. (4) The treatment processes and operating levels during sampling are fully described in plant visit reports and are summarized in the detailed data base. Because of the volume of data, it was impossible to include all of it in the Development Document. However, this data is available for public review. (5) Free cyanide oxidation and precipitation of complexed cyanides is a very effective technology when operated correctly. The Agency's data base clearly illustrates this. Those plants that did not meet the limits were very similar (raw process wastewater, process operations, etc.) to those plants that did meet the limits. (6) The Agency did not consider spill controls because handling drippages and spills were assumed be a normal part of existing electroplating operations. Exceptional spills may be subject to the upset provisions described in this regulation or the General Pretreatment Regulations, 40 CFR 403.

Comment: Although data on 123 plants had been collected, not all were used in subsequent analyses.

Response: Screening criteria applied to the data from 123 plants determined that data from 67 plants were usable. The screening criteria were designed to eliminate plants which were improperly designed or clearly improperly operated. Such plants do not represent the performance of best practicable technology and should not be considered in setting pretreatment standards. Removal from the data base resulted from excessively high TSS

values, out of tolerance pH or temperature differential in the clarifier, and low pollutant values in the raw waste load. Certain other plants have subsequently been eliminated as a result of information provided by participants.

Comment: EPA should examine separately the data for job shops because they cannot achieve CN,A limits.

Response: EPA believes there is no basis for subcategorizing on the basis of job shops versus captive shops. There tend to be proportionately fewer job shops in the data base than are found across the electroplating category because proportionally more job shops are indirect dischargers and hence are inclined not to have treatment facilities. It should also be noted that the Agency is only limiting CN,T, not CN,A, above the flow cutoff.

Comment: The 12 cents per gallon 1976 sludge disposal cost proposed by the Agency is too low. Moreover, costs have risen due to state requirements of sludge disposal since 1976 and will rise further due to the forthcoming Resource Conservation and Recovery Act (RCRA) requirements for sludge disposal.

Response: The sludge disposal cost proposed by the Agency of 12 cents per gallon was based on 1976 costs to haul and dispose of sludge. Sludge disposal practices in 1976 generally included disposal in secure industrial landfills or in municipal sanitary landfills.

According to the comments received, sludge disposal costs in 1979 typically ran between 25 cents and 50 cents per gallon and are expected to run even higher after RCRA requirements become effective. These comments are not relevant to the cost of sludge disposal in 1976, the year on which all other costs of complying with this regulation and the economic conditions of the platers are based.

The Agency believes the 12 cent per gallon estimate is an appropriate 1976 cost. However, to allow a generous margin of safety, that figure has been raised to 25 cents per gallon. The net effect of increased sludge hauling and disposal costs on job shop closures and unemployment was found to be marginal.

Comment: The costs of enforcement of the regulations were not included in the cost model.

Response: Enforcement costs are determined by the local jurisdiction and distributed among users by the local publicly owned treatment works. Such costs are not technology costs.

Comment: The cyanide limitation should be keyed to the water quality criterion for cyanide.

Response: The limitations set forth in this regulation are technology based and are not directly related to the toxicity of a pollutant. Water quality criteria, however, are based on toxicity considerations because they are the Agency's best assessment of the concentrations required for the protection and propagation of fish, shellfish and wildlife. Accordingly, technology-based limitations and water quality criteria are unrelated requirements and are used for different purposes.

Comment: The total metals limitation is overly strict for platers who plate numerous metals and is not necessary. Several commenters pointed out that the sum of the limitations for the individual metals exceeded the total metals limitations and, therefore, the total metals limitation was unduly strict.

Response: The commenters are correct in saying that the total metals limitation imposes a more stringent limitation on platers who plate numerous metals than would a regulation which specified only limitations on individual metals. This is recognized and was intended. The individual limitations would be unjustifiably lenient for plants plating three or more metals. For these plants, which tend to have lower individual concentrations of metals in treated effluent, the total metals limitation more accurately represents the level of treatment which can be attained by the model technology. Some commenters have assumed that all of the metals are being discharged at concentrations at or near their individual limitations; if this is true it is an indication that the treatment system is not operating properly. It must be emphasized that a well operated treatment system normally should have effluent concentrations much below the one day maximum values on which the regulation's limitations are based.

Comment: The reason why EPA chose a cut-off point of 38,000 liters (10,000 gallons) per day is unclear and the level at which the cut-off is set is not adequately justified.

Response: The Agency received a wide variety of comments regarding the setting of a cut-off level of 38,000 liters (10,000 gallons) per day. The regulation requires dischargers whose flow is below the cut-off to meet limitations on cyanide amenable to chlorination (CN,A), lead (Pb), and cadmium (Cd). Dischargers whose flow exceeds the cut-off are required to meet limits on total cyanide (CN,T), lead, cadmium, copper (Cu), nickel (Ni), zinc (Zn), total chromium (Cr), silver (Ag), and total regulated metals (TRM).

The Agency's intention in setting the cut-off limit was to reduce the economic impact of the regulation while maximizing the environmental benefit obtained. There is no quantitative method to determine an optimum cut-off figure, so the decision on the cut-off level rested on consideration of the relative economic and environmental impacts of the various levels. The level of 38,000 liters per day was chosen as a compromise. The levels considered were: no cutoff; 38,000; 61,000; 76,000; 114,000; and 152,000 liters per day. The numeric cut-offs correspond to 10,000; 16,000; 20,000; 30,000; and 40,000 gallons per day.

Because the major economic impact of the regulation is expected to fall on job shops, the analysis concentrated on the relative impact of the various levels on the job shop sector. Since the Agency was concerned primarily with the sensitivity of the economic and environmental impacts to the cut-off level, the analysis used a sample data base which was not corrected for exact correlation between the sample and the total population, but which was expected to properly reflect the relative magnitude of the effects of varying the cut-off level. The sample also was not adjusted for potential reductions of flow by dischargers to meet the various cut-off levels. Therefore, the estimates of economic impact are probably overstated and the estimates of environmental impact are probably understated. The indicators of impact chosen for comparison were closure rates and percent of untreated discharges. The balancing was intended to reduce the closure rates while minimizing the percentage of untreated discharge. The results of the analysis are presented in the table below.

Flow cut-off[1]	Closure rate[2]	Untreated flow[3]
None	25.6	0
10,000	20.5	3
16,000	19.2	6
20,000	18.3	8
30,000	17.5	10
40,000	17.5	20

[1] Gallons per day.
[2] Percent of job shops.
[3] Percent of job shop flow.

As the table illustrates, even the maximum flow cut-off considered (40,000 gallons per day) results in an estimated unadjusted closure rate of 17.5 percent. Setting the cut-off this high was unacceptable because a number of very large job shops could reduce flow to 40,000 gallons per day and thereby avoid the limitations on copper, nickel,

chrome, zinc, and silver. The closure rate is relatively insensitive to the flow cut-off below the 40,000 gallon per day level. However, the percentage of untreated flow is sensitive to cut-off levels. For instance, between the 10,000 and 16,000 gallon per day levels the closure rate decreased by only 1.3 percent but the percentage of untreated flow doubled from 3 percent to 6 percent. Higher cut-off levels showed a continuation of the trend toward rapid increase in untreated flow and small decreases in closure rates.

Besides showing that increasing the cut-off limit above 10,000 gallons per day resulted in minimal decreases in the closure rate at the expense of large increases in untreated flow, the study showed that a significant reduction in the unadjusted closure rate estimate was obtainable by setting the cut-off level at 10,000 gallons per day. This reduced the unadjusted closure rate by over 5 percent while allowing only 3 percent of the discharge to go untreated. Based on the above analysis, the Agency decided that there was more benefit to setting a cut-off level at 10,000 gallons per day than at a higher level.

The Agency has distinguished between cyanide, lead, and cadmium and the other regulated metals. Lead and cadmium pose human health problems and cyanide is both extremely toxic to aquatic organisms and is discharged in large quantities. These three pollutants have a greater potential for causing damage than the others.

Some commenters said that since few platers will meet the cut-off criteria, the limit should be set at a higher level. The data available to the Agency show this to be an unfounded concern; approximately 40 percent of the job shop platers discharge less than 10,000 gallons per day. The Agency is concerned that the opposite may be true. In performing the analysis upon which the 10,000 gallon per day level was based, the Agency assumed that only plants which were presently discharging less than 10,000 gallons per day would qualify. In reality, many platers who are discharging more than 10,000 gallons per day can probably reduce their flow and come under the cut-off limit. As a result, the percentage of untreated flow may be significantly higher than that calculated. The Agency will continue to monitor the performance of the industry to determine whether the cut-off level should be adjusted in the future.

Alternative bases for setting cut-off levels were considered by the Agency but were rejected. In particular, the Agency considered setting the cut-off on the basis of the amount of chemicals used by the platers and on the total number of pounds of pollutants discharged. Both of these alternatives were rejected because they would be extremely difficult to monitor. Water usage is easily determinable and is believed to be as directly related to the impact of the discharge on the POTW as any other parameter considered.

Comment: Concentration-based standards penalize those facilities employing water conservation or reuse techniques. Other commenters believe that concentration-based standards do not penalize such facilities.

Response: The Agency recognizes that concentration-based standards do not encourage water conservation or reuse techniques. However, such standards do not necessarily penalize conservation. This regulation includes opitonal mass-based standards as well as concentration-based standards. These additional standards used the same data base and assumptions as did the concentration-based standards. The details of the development of these standards are given in the Development Document.

Comment: Platers may not know if strong chelating agents are present in their rinse waters and therefore would not know if they qualify for TSS monitoring. Two issues were most often raised: First, many chemical suppliers do not readily divulge the composition of their formulations; and, second, some of the strong chelating agents should be identified.

Response: The term "strong chelating agents" is defined as all compounds which, by virtue of their chemical structure and amount, form soluble metal complexes which are not removed by subsequent metals control techniques such as clarification or filtration. Most suppliers, if requested, will identify the existence of chemicals that may form strong metal complexes. However, if a plater cannot determine if strong chelates are absent from his processes, then the TSS monitoring surrogate cannot be used. Examples of strong chelating agents are cyanide, ammonia, EDTA, quadrol, HEDTA, NTA and DTPA (and other amino polycarboxylic acid-type chelates). Citric acid, tartaric acid, Rochelle salts, thiourea, and gluconic acid are weak chelating agents.

Comment: Since total suspended solids is a compatible pollutant and the basis for user charges in some municipalities, it is not a proper indicator pollutant.

Response: Total suspended solids are used as an indicator of the effectiveness of treatment to remove toxic metals. The optional alternative limitation on TSS was not developed to limit TSS *per se*. Consequently, a POTW will not be permitted to allow credits for TSS removal based on removal by the publicly owned treatment works.

Comment: The derivative of the alternate TSS limitations is indirect and unclear and does not ensure compliance with metals limitations. An alternative method was suggested based on conversion of allowable concentrations of metals to equivalent hydroxide concentrations.

Response: The Agency reviewed the methodology used to calculate the TSS monitoring limitations for the proposed regulation and designed a new methodology suggested by a commenter. One commenter proposed an approach to setting the limitations based on the use of metal hydroxide equivalents to calculate TSS as a function of the individual metals limitations. Theoretically, a metal concentration would be measured as TSS if all of the metal were in its metal hydroxide form. To obtain a value for the metal hydroxide concentration, each metal concentration is multiplied by the ratio of the atomic weights of the metal hydroxide to the metal. The commenter suggested that TSS can be calculated by converting each individual metal limitation to a hydroxide equivalent and summing the copper, nickle, chrome, and zinc equivalents. However, the resulting TSS value would overestimate an equivalent TSS value for total metals.

A modification of this approach was constructed by calculating a weighted hydroxide constant which is the ratio of the sum of the hydroxide equivalents of the long term average concentrations of the individual metals divided by the sum of the long term average concentrations of the metals. The weighted hydroxide constant is multiplied by the long term average of the total regulated metals (derived by a regression method) and by the variability factor for the total regulated metals. The resulting limitations are then adjusted upward to reflect the portion of other metals typically in raw waste, such as iron, tin, and aluminum.

Comment: The alternative TSS limits cannot be achieved with the technology specified.

Response: Six out of 21 of the plants in the Agency's data base meet the TSS daily maximum of 20 mg/1. Therefore, the TSS alternate limitation is achievable using existing clarifiers or other solids removal equipment.

Comment: Prohibition of dilution would be almost impossible to enforce and monitor.

Response: Section 403.12(b)(4) of the General Pretreatment Regulation

requires all users of publicly owned treatment works to report their average and maximum flows within 180 days after the promulgation of any categorical pretreatment standard. These data could indicate possible dilution by pointing out increases in water use. This does not guarantee, however, that dischargers will accurately report their water use. However, falsifying reports is a violation of Section 308 of the Clean Water Act and is punishable by civil and criminal penalties under Section 309 of the Act.

Comment: The effluent limitations exceed water quality standards and, therefore, implicity assume that dilution will prevent damage to the environment.

Response: The limitations set in this regulation are technology based standards. There is no direct relationship between technology based limits and water quality criteria. If compliance with these technology based standards does not allow the publicly owned treatment works to meet stringent water quality based limitations in its permit, then it may require more extensive pretreatment.

Comment: What is meant by "electroplating process water"?

Response: The term "process wastewater" is defined in 40 CFR 401.11(q). In general, electroplating process wastewater includes all waters used for rinsing, alkaline cleaning, acid pickling, and other metal finishing operations; it also includes waters which come about from spills, batch dumps, and scrubber blowdown. Cooling water which does not come in contact with the product or waste by-products is not included in electroplating process wastewater definition.

Comment: Data presented in Section XII do not support the need for regulating silver. Monetary considerations will limit the amount of silver discharged by electroplaters.

Response: Silver is acutely toxic to humans and aquatic life. Certain fish species are extremely sensitive to silver, as concentrations of less than 10 μg/l kill half the fish in four days. Only high concentrations of silver would interfere with POTW treatment processes. However, 25 to 75 percent of the silver introduced to a POTW is discharged, untreated, to surface waters. While it is probably true that the value of silver provides strong economic incentives for electroplaters to recover silver wastes, there are some operations which could discharge toxic levels of silver to a POTW and a significant number of platers do not remove silver from their effluent. The Agency prefers to rely on regulation to control the discharge of pollutants even though there may be economic incentives to voluntary control.

Comment: Cyanide is compatible with POTWs and therefore the limits should be higher. At 10 mg/l total cyanide, POTWs destroy cyanide to concentration levels which will not cause problems when discharged to streams. The commenters cite several examples of POTWs with high removal efficiencies (98 percent) for cyanide as justification for higher limits.

Response: While some cyanide is treated in a POTW with well acclimated organisms, the typical POTW shows significant pass through of cyanide. The Federal Guidelines for State and Local Pretreatment Programs (EPA–430/9–76–017) contains data on cyanide removability for 22 POTWs. Cyanide pass through for these plants ranged from 2 percent to 100 percent, with an average pass through of 69 percent. Data from an ongoing EPA study of POTWs (Contract EPA–68–01–3857) showed 55 percent pass through in one plant and 16 to 79 percent pass through of cyanide in another. Both of these plants are activated sludge plants currently meeting the secondary treatment criteria. These data all indicate that a significant portion of the cyanide is likely to pass through a typical POTW into receiving water, where it can cause environmental damage.

Comment: EPA's cited inhibition levels are too low and are unsupported by data.

Response: Data on inhibition levels were taken from Section E of "Federal Guidelines: State and Local Pretreatment Programs" (EPA–430/9–76–017), and the data references cited therein. The limits set in the electroplating pretreatment regulations, however, were not based on these inhibition levels but rather on best practicable treatment technology. All of the pollutants which are proposed for regulation are known to have the potential to interfere with POTW processes. Actual interference, however, is a function of the pollutant concentration and the characteristics of each POTW.

Comment: Each city has its own unique mix of industry. Non-electroplaters contribute a large amount, even more than 50 percent in some cases, of these pollutants in specific cities.

Response: Since not all electroplaters plate the same metals, not all electroplaters' wastes contain all the pollutants under consideration. Therefore, for any given city it is relatively easy to find one or more of these pollutants present which are mostly discharged by non-electroplaters. However, the national overview suggests that electroplaters are a large industrial source of these pollutants—the largest single controllable source in many cases. Electroplaters' average raw waste concentrations are far higher than residential background levels of these pollutants. Data show electroplaters, a single industry, to be contributing a large part of the pollution entering a number of POTWs. For Monroe County, NY, electroplaters contribute 31 percent of the total cyanide, 78 percent of the copper, 98 percent of the nickel, 66 percent of the zinc and 41 percent of the cadmium found in the POTW influent (comments from County of Monroe, NY, April 14, 1978). The data from the 1974 study of New York City by L. Klein, *et al.*, show electroplaters responsible for 43 percent of the chromium, 62 percent of the nickel, and 33 percent of the cadmium found in POTW influents. These data reinforce the necessity of regulating electroplaters.

Comment: EPA fails to distinguish between beneficial and toxic levels of metals and between the various forms in which a given metal can be present.

Response: While some of the metals are essential elements (e.g., zinc), they do not degrade in the human body but rather bioaccumulate. Continued accumulation to above-normal levels can be toxic. The toxicity of a metal is related to the form that it takes in the environment. While it is the metallic ion that has the actual toxic property, the different forms can be converted to each other in the environment.

Comment: Runoff is a major contributor to the pollutant load in POTWs. Since runoff is a major factor, the electroplating regulations will have little or no impact.

Response: EPA recognizes that in systems with combined storm and sanitary sewers, metals runoff loadings can be sizeable, although intermittent. For example, the 1974 study by L. Klein, *et al.* in New York City estimated that runoff contributions to POTWs were: copper=14 percent; chromium=9 percent; nickel=10 percent; zinc=31 percent; and cadmium=12 percent. The electroplaters' contribution to the POTW loads in the same study were: copper=12 percent; chromium=43 percent; nickel=62 percent; zinc=13 percent; and cadmium=33 percent. These data indicate that, except for copper and zinc, the electroplaters' contribution to the POTW was substantially higher than the contribution from runoff. Cities with

separate storm and sanitary sewers would be expected to show far less contribution from runoff. In considering the impact of electroplaters versus the impact of runoff, EPA concludes that from a national standpoint there are cities where both can contribute significantly to a POTW. Electroplaters are the largest controllable source of the metals in many cases. Data cited in Section XII about sludge quality in Grand Rapids, Muncie, and Buffalo demonstrate that pretreatment regulations do have a favorable impact on sludge quality.

Comment: The electroplating industry contributes only 0.015 percent of the total cadmium flow to the environment and only 0.27 percent of the total cadmium flow to surface waters.

Response: EPA maintains that the figures cited above, which were taken from a report submitted with the comments, are too low. The numbers are based partly on estimates from "unpublished calculations" of the amount of cadmium discharged by electroplaters. In deriving the 0.27 percent figure, the commenter's estimate of 1.567 kkg/yr cadmium indirectly discharged to POTWs by electroplaters is far below any of the other estimates available to EPA. For example, calculations based on EPA's screening data (assuming 17 percent of the job shops and 30 percent of the captives have treatment in place and that treatment removes 90 percent of the cadmium in the raw waste) show 310 kkg/yr indirectly discharged to POTWs. Another study (EPA–600/5–77–002) estimated 514 kkg/yr, while a third study (cited in EPA–560/6–77–032) estimated 143 kkg/yr. The numbers cited in the comment underestimate the amount of cadmium discharged directly to receiving waters by electroplaters. In examining other figures in the report, the Agency concludes that the report's estimated contributions from non-electroplaters were too high, due to double counting of emissions and to assumptions which EPA disputes. Furthermore, the report's use of "total cadmium flow to the environment" as a basis for comparison is misleading. Not all of the cadmium discharged to the environment is likely to be as environmentally mobile as electroplaters' waste or have the same potential for causing environmental damage. In summary, EPA disagrees with the commenter's conclusions and also disagrees with the methodology used to reach those conclusions.

Comment: A paper given by EPA scientists at the 50th annual conference of the WPCF (October 1977) concludes that "health effects from cadmium in municipal sludge applied to agricultural land are not expected to be a problem." Why then is EPA persisting in raising the sludge issue?

Response: The same paper also states, "The conservative approach would be to stop application of cadmium to soil since a dependence [upon limits] on either the total or annual loading rate could be wrong. However, because of the immediacy of the issue, the realization that some of the questions will be answered in the near future, and that in the interim either approach would be acceptable, it would appear logical to apply limits on either or both." Calculations on which the conclusion quoted in the comment were based emphasized good management practices of not more than one kg/ha annual cadmium application and neutral pH. Even if these conditions are met, the paper goes on to say, "if a person eats a normal diet and uses municipal sludge to amend the soil where practically all of his food is grown, it would be prudent to assure that such sludge contains less than 60 ppm cadmium." At 40 percent POTW removal efficiency for cadmium and 1400 lbs of sludge generated per million gallons of wastewater, a POTW influent of only 25 $\mu g/l$ is needed to cause a sludge concentration of about 60 ppm. At 60 percent POTW removal efficiency, the influent concentration necessary is about 17 $\mu g/l$. Electroplaters' raw wastes have been measured to be on the order of one thousand times higher in concentration than these numbers thus demonstrating that potential for sludge problems certainly exists in those areas where electroplaters are located.

Aside from human health considerations, there are strong policy and economic reasons for requiring pretreatment of cadmium. Sludge without cadmium is a valuable resource. Moreover, alternative sludge disposal methods, such as incineration and landfilling, are more expensive than land disposal and can cause environmental problems.

Comment: Higher limits of CN, A are possible without endangering sewer workers. Also, hexavalent chromium is reduced in municipal sewer lines and a total chromium limit is sufficient to protect against sludge discharges.

Response: Although limits on hexavalent chromium appeared in the proposed regulation, hexavalent chromium is not limited in this promulgated regulation. Indirect dischargers below the flow cutoff have no requirement to reduce hexavalent chromium, whereas indirect dischargers above the cutoff will generally need to reduce hexavalent chromium and to precipitate trivalent chromium to achieve the total chromium limitations. The decreased benefit to the environment of POTW operation due to the elimination of the hexavalent chromium limitations is not thought to be significant on a national scale.

The CN, A limitation for indirect dischargers with flows greater than 10,000 gallons per day has been omitted; now only CN, T is limited. Small indirect dischargers still have a CN, A limitation, although at a high level. This limitation is based on technological considerations.

Comment: A cost-benefit analysis should have been performed to show the environmental benefits to be derived from the promulgation of the regulations.

Response: The pollutants regulated are toxic materials determined to have a potential for passing through or interfering with a POTW. The standards are then based on the best practicable technology currently available. The Agency assessed the costs and economic impacts of the standards and estimated the expected pollutant removal from industrial wastewaters. However, a strict cost benefit analysis was not conducted and was discouraged by Congress during development of the Clean Water Act.

Comment: Flow changes cause large variations in clarifier performance.

Response: Within wide influent limits, properly designed and sized clarifiers produce a fairly constant effluent concentration of the treatable pollutant parameters, even though mass loadings may change. If influent flow fluctuations result from production changes, both concentration and mass based standards should be met.

Comment: EPA understated the costs by neglecting certain cost elements.

Response: The Agency used computerized cost estimation techniques to estimate treatment costs at individual facilities and for the electroplating point source category. The Agency used a base year of 1976 for cost estimates and believes that the cost model is accurate to within 20 percent for predicting industry-wide costs. Estimated costs for individual facilities may show wider variation due to special site conditions.

The cost input data comes from a number of sources including on-site surveys, waste treatment equipment manufacturers, and previous EPA projects. The model has been checked by comparing estimated capital and maintenance costs to actual costs.

One commenter stated that the cost estimates for investment, operation and

maintenance, and energy were excessively low. As an example, the commenter estimates the capital cost of a continuous pH control system for a wastewater flow of two gallons per minute to be $21,390. The Agency's estimate for a batch system was $1,452 which includes a 94 gallon holding tank. The Agency believes its estimate is realistic for a batch pH control system that is part of a total treatment system.

Operation and maintenance costs for pH control were also questioned by this commenter. The Agency estimated annual O & M costs for a two gallon per minute system at $286 per year. Total operating costs for a treatment system including clarification are prorated to individual unit processes. For facilities with total daily flows of less than 2,000 gallons per day (2 gpm), the Agency believes the prorated O & M estimate for pH control to be accurate. Monitoring costs are computed separately based on flow of the process wastewater.

Power costs for the two gallon per minute pH control system were estimated to be $8 per year. The smaller pH control systems require minimal electrical power to provide one turnover per minute and thus the Agency believes this estimate to be reasonable.

Comment: The total cyanide limitation may not be achievable because ferrocyanides build up in plating solutions as a result of good dragout recovery. Ferrocyanides are not effectively treated by chlorine oxidation. Does EPA require that steel not come in contact with cyanide plating solutions?

Response: If the commenters have achieved good dragout recovery, they may want to consider the optional mass based limitations. Secondly, steps can be taken to reduce ferrous or iron contaminants in the plating solutions through better control of pre-plating rinsing, and substitution of nonferrous tanks and anode baskets. Thirdly, the specified model technolgy when correctly operated and maintained, reduces total cyanide to concentrations within the limits of this regulation. Following the oxidation of free cyanide, ferrocyanides are removed by clarification. This second step cannot be ignored when evaluating the effectiveness of the model technology.

Comment: The Agency's data base supporting the cyanide limitations is flawed by analytical uncertainties.

Response: The commenter requested reconsideration of the cyanide limitations for several reasons. First, some of the plants which submitted data to EPA do not use approved analytical testing methods for cyanide. In response to this comment EPA discarded the data submitted by those plants known to be using improper methods. Second, the commenter had an independent laboratory sample some of the same plants that EPA's contractor had sampled. The independent laboratory found concentrations of cyanide in the plant effluents which were significantly higher than those measured by EPA's contractor.

The commenter who provided the data from the independent laboratory pointed out that the EPA may have observed low CN concentrations because most of the plants sampled "may have been much more careful during the [EPA's] sampling than during the [independent laboratory's] sampling" because the EPA sampling may have found violations of the discharger's permit. If this is the case, then it is clearly not an adequate reason for invalidating the EPA data base. The agency expects waste treatment plants to be operated carefully whether an EPA monitor is present or not.

The commenter also felt that the alleged discrepancy may have arisen because the EPA contractor overestimated the capabilities of the laboratories they used. Assuming for argument's sake that the contractor's data was invalid, the Agency examined the impact of removing all of the contractor's data from the data base. The result was cyanide limits about twice as stringent as those originally calculated. This indicated that the EPA contractor tended to report higher cyanide values than other sources, including the companies themselves, the commenter's laboratory, and another EPA contractor whose qualifications were not challenged. Since the contractor's data were higher than the majority of the data but lower than the commenter's data, there appears to be no consistent bias toward either high or low in the contractor's data.

Third, the commenter questioned the validity of the data base because values appeared in it which were below the limits of accuracy of the methods employed. The Agency does not accept this as a valid criticism of the data base. The commenter is confusing inaccuracies in individual measurements with inaccuracies in statistical analysis of a number of measurements. The data base was used to determine the median concentration and variability characteristic of a large number of individual plants. Any individual measurement in the data is subject to a number of sources of error. However, when the data is aggregated, the effects of errors in individual measurements should cancel each other unless there is a consistent bias in all of the measurements. Some measurements are low, others are high. If the low values were eliminated from the data, there would be no counteraction to the high values. Therefore, it would be incorrect to remove low values from the data base.

The commenter does not allege any consistent bias in the data.

Finally the commenter performed a study of laboratories which had performed cyanide analysis during collection of the data base. The study showed that the laboratories had errors of up to 100 percent in analyzing known concentrations of cyanide. The result of the commenter's test tended to show that there was consistent bias in the values reported by the laboratories in favor of higher reported values. The average true total cyanide concentration in nine samples submitted to the laboratories was 0.487 mg/l; the average measured concentration was 0.557. The laboratories tended to report measured values of total cyanide 14 percent higher than the true values. The average true amenable cyanide concentration in nine samples was 0.0517. The average measured concentration was 0.073. The laboratories tended to report measured values of amenable cyanide 41 percent higher than the true values. Therefore, if the Agency accepted the commenter's data it would adjust the cyanide limitations downward. However, the commenters test was very limited in scope and probably not reliable as an indicator of true bias. The Agency's data base is composed of hundreds of measurements and therefore the effects of individual errors is more likely to be cancelled.

The fact that the laboratories surveyed by the commenter tended to report slightly higher values of cyanide than were actually present would be of concern had EPA not made provision for such variation in setting the limitations. Laboratories were found to report measured values as much as 100 percent different from the true values. However, the maximum daily cyanide limitations were set by determining the median performance of the plants studied and then setting maximum daily limitations 500 percent higher to account for variation in analysis, sampling, and plant performance. Thus provision has been made for analytical error in setting the limits. The 30 sample limitations were set 50 percent higher than the median performance level, because the average of 30 samples would tend to have a smaller variability due to the cancelling of individual errors as discussed above.

Comment: Indirect dischargers participating in the economic survey may have indicated that cadmium and zinc plating is conducted but ignored mentioning chromium plating or chromating if they were an integral part of zinc or cadmium plating. To the extent chromium plating and chromating were undercounted, treatment costs to reduce hexavalent chromium are ignored.

Reponse: Respondents to the economic survey indicated the specific processes employed in their facility. Chrome plating and chromating were among the choices available to the respondents. Also, cadmium and zinc plating frequently occurs without chromium plating or chromating. Therefore, the automatic inclusion of chromium plating and chromating automatically with cadmium or zinc plating is not warranted.

Comment: Will technology installed under this pretreatment regulation (BPT analog) be consistent with the future pretreatment regulation (BAT analog) to become effective no later than July 1984?

Response: The goal of the Agency in the development of BAT level pretreatment standards shall be end-of-pipe treatment technology compatible with the model technology of this regulation and in-process changes to recycle raw materials, reduce dragout, and reuse or reduce water flow.

Comment: Some of the plants in the Agency's data base (6050, 6051, 6053, 6079, 6081, 6087, 6358, 19050, 19051, 36540) should be omitted from the CN, A data base because the cyanide wastewaters were an insignificant portion of the total electroplating flow or the plating lines with cyanide had integrated treatment.

Response: The Agency agrees that integrated treatment systems should produce a higher effluent quality and cost more than the end-of-pipe cyanide oxidation systems costed as part of the model technology. Therefore, data from plants utilizing integrated treatment have been omitted from the data base. The Agency also omitted data from those plants where it was reasonable to presume that cyanide wastewaters were a small portion of the total raw waste load. Contrary to suggestion, plant 6079 was kept in the data base because it does not use integrated treatment systems and because approximately 30 percent of the plant flow originates from cyanide plating

Comment: Do low pollutant concentrations in the effluents from treatment systems sampled by EPA result from the efficiency of the treatment process or dilution of process water?

Response: Effluent limitations were calculated from a data base screened by several criteria. One criterion for consideration was that the raw waste concentration of a metal pollutant must be at least 1.0 mg/l. Plants with a significant proportion of non-electroplating wastewaters also were excluded from the data base. If a facility had installed hexavalent chromium and cyanide treatment systems, and if the flows from these processes were significant, then the effluent concentrations to these systems were presumed to require treatment.

Comment: Several industry representatives advocated the application of technology to allow for the treatment of commingled waste from several operations. One commenter went on to state that combined treatment of wastewaters has been standard practice by municipalities and industry.

Response: The Agency in many cases supports the combined treatment of industrial wastewaters; often where the waste streams complement one another, there are economies of scale and improved operation. Cost estimates were based on separate treatment of process wastewaters. If treatment limitations cannot be met by commingled treatment, the separate treatment of wastes is required.

Comment: The 30-day limits should be eliminated because they were derived from statistical methods rather than from actual data, and because plants are expected to exhibit skewed variability, not normal variability as assumed by the Agency. A commenter cited hypothetical examples of plants which meet the daily limits while not meeting the 30-day limitations.

Response: The Agency has employed statistical methods to derive these limitations; however, the statistical methods were applied to actual data. The Agency agrees that the statistical distribution of pollutant concentrations in effluent wastewaters is skewed. The data indicate that the underlying statistical distribution of pollutant concentrations is log-normal, which is highly skewed when presented as arithmetic values but which can be normalized by conversion to logarithms. The statistical methods employed, including these based on the log-normal distribution, are consistent with the statistical characteristics that the data exhibit. The Agency has not assumed arithmetic normal variability in application of statistical methods.

It may be possible to construct hypothetical examples of effluent concentrations that conform to daily limitations but not average limitations as noted by the commenter. However, a plant with an appropriate and properly operated wastewater treatment system consistently will meet both daily and average standards. A plant that repeatedly violates either or both standards must be regarded at best as a marginal plant and, consequently, requires adjustments of the treatment or operating practices.

Comment: Plants that plate only one metal will be unable to meet the proposed limitations.

Response: The Agency's analysis, as reported in the development document for the proposed regulation, does predict that a plater of one metal on average will have a higher concentration of that metal than a plater of more than one metal. This does not demonstrate, however, that a single metal plater cannot meet the final regulation.

In particular, the Agency's regression model is based on an implicit assumption that the predicted pollutant discharge is a function of TSS in the effluent and the ratio of the given metal to total metals in the untreated wastewater. Accordingly, this analysis reflects the number of metals plated only indirectly through changes in the aforementioned ratio.

In response to the issue raised by this commenter, the Agency, in a separate analysis, has determined that EPA data base plants with large metal ratios meet the limitation with approximately the same frequency as do all plants in the data base. The Agency therefore believes that the commenter's assertion is not supported. However, this analysis should not be interpreted to mean that the regression model does not apply. Specifically the model, which is a function of only two variables, has been used to describe certain interactions among variables over a large range of circumstances. It is a representation of a norm which is an aggregate approximation in that the model does not fit any single case exactly. Single metal platers and those with excessively high metal rates are at the fringes of the region to which the model applies. In these circumstances there are other important factors, such as those cited below, which are not incorporated into the model directly. This consideration and other analyses described here indicate that the model's predictive power is less accurate for single metal platers. The Agency used the model by evaluating it at specific combinations of

the two independent variables resulting in appropriate standards for all platers.

From an engineering standpoint, the wastewater pH can be adjusted to optimize the treatment system reduction of a single metal. This approach can and should be used whenever there is a relatively large amount of one metal in the wastewater.

In developing this regulation the Agency also found that limitations for copper for the common metals plating subcategory were essentially the same as those independently derived for copper in the printed circuit board subcategory. Thus, for copper these two sets of limitations were combined into one set for both subcategories. The Agency found the same equivalence between common metals nickel and electroless nickel.

Finally, it should be mentioned that these limitations are less stringent than those originally proposed. The daily maximum standard for zinc, for instance, is 23 percent higher than that proposed.

Comment: The hexavalent chromium limitations proposed by the Agency are too stringent, are unnecessary, and are based on analytical procedures which are unreliable at the levels involved.

Response: These final regulations do not set limitations for hexavalent chromium. For the purposes of this regulation, hexavalent chromium limitations are probably unnecessary where total chromium limitations are established. Accordingly, plants discharging 10,000 gallons per day or more will be required to meet a total chromium limitation but not a hexavalent chromium limitation as originally proposed. The Agency also has eliminated the hexavalent chromium limitation for plants discharging less than 10,000 gallons per day. This was done in order to reduce the cost of this regulation to the industry. The Agency believes that in most instances the environmental effect of eliminating this requirement will be insignificant. However, local control authorities should be aware that some indirect dischargers, by reducing their flows (without reducing the quantities of pollutants), may be able to avoid meaningful regulation. In such instances, particularly for small or sensitive POTWs, local control authorities may want to establish hexavalent chromium limitations for plants discharging less than 10,000 gallons per day.

Comment: Companies conserving water should be given higher allowable concentration based limits.

Response: Use of mass-based limitations may have the effect of allowing water-conserving indirect dischargers to discharge higher concentrations of pollutions than allowed by the concentration based standards. However, if the resulting allowable concentrations should cause an adverse impact on the POTW, stricter standards may be imposed by the local control authority.

Comment: Many electroplaters have not yet begun to practice water conservation. Since water conservation can significantly reduce the cost of treatment, any analysis of economic impact which does not take this into account is invalid.

Response: An economic analysis which does not take into account possible treatment cost reductions achievable by water conservation is conservative. This is a BPT level pretreatment regulation which considers end-of-pipe treatment. BAT level pretreatment regulations, now underway, will address in-plant process changes. A plant by plant evaluation of the feasibility and current extent of water conservation is necessary for this analysis.

Comment: Should monitoring be flow or time proportional or are grab samples adequate?

Response: The monitoring may be by either composite or grab samples. The statistical analyses of the data used to determine variability of effluent concentrations were based largely on grab samples. Therefore, the extra variability of individual grab samples has been factored into the analysis. However, flow or time proportional compositing of samples gives a better indication of treatment plant performance and should be encouraged.

Comment: The pretreatment standards should not apply to combined waste streams. Captive electroplating facilities which combine wastewaters from other categorical processes should not be responsible for meeting the regulation; it is difficult to relate effluent quality from a combined treatment facility to the electroplating operations.

Response: As with other concentration-based standards, final pollutant limitations shall be based on that portion of the flow that is generated by the electroplating processes. The concentration-based limitations appearing in this regulation shall be applied to the flow originating from electroplating operations; therefore, the limitations will depend upon the proportional flow from other non-electroplating wastewater streams. For example, if electroplating process wastewater is diluted by an equal volume of once-through cooling water, then the electroplating limitations for this facility would be half of the value stated in the regulation.

Comment: Several commenters have requested clarification of the point at which monitoring should occur, or, alternatively, to which waste streams the limitations apply.

Response: The effluent limitations set out in this regulation apply to electroplating process waters only. As pointed out in the discussion of dilution, process wastewaters are limited to rinses, plating baths, and cleaning baths; they do not include non-contact cooling waters, sanitary wastes, or waters used in other plant operations. The Agency recognizes that in some cases the electroplating wastes are combined with other waste streams either before or after treatment. If monitoring is performed on the combined streams, then the concentration based limits required by this regulation must be adjusted to reflect the actual volume of the electroplating process waters. For example, if the monitoring location is such that the monitored stream is composed of one-half electroplating wastes and one-half other wastes, then the allowable concentration will be one-half the value required by the regulation. If the allowable concentration after adjustment for other waste streams is below the levels detectable, then a monitoring location upstream from the mixing point must be chosen. Since the mass based limitations are not a function of flow, there should be no adjustment of those limitations. Somewhat related to this question is the point at which the 38,000 liter per day flow is determined. The regulation is very clear that the 38,000 liter per day cutoff figure refers to "electroplating process wastewater."

Comment: Does the daily maximum concentration equal the maximum allowable instantaneous value attained at some time during the day?

Response: No, the Agency does not require continuous determination of pollutant concentrations throughout a day but is requiring that a sample be taken and that all the regulated pollutant concentrations in the sample be less than the daily maximum values.

Comment: The analytical method for total cyanide is inaccurate in the range of concentrations which platers will be required to meet. Furthermore, the development of the total cyanide limitations failed to adequately take into account the sources of variability in observed effluent concentrations of total cyanide.

Response: All scientific observations have some degree of uncertainty. The

commenter states that the Agency has failed to discriminate between sources of uncertainty in the concentration of total cyanide due to analytical and sampling methods and within-day and day-to-day variations in effluent concentrations. The commenter misconstrues the objective of this regulatory activity. The objective of the Agency is to establish values of effluent concentration which can be met by a properly designed and operated treatment system. This was done by determining the median measured effluent concentration achieved by 71 plants. This analysis indicated that out of 580 measured concentrations of total cyanide, more than half were less then 0.15 mg/l. (See Development Document, Section XII.) This median value was adjusted to account for within-plant variability by deriving a daily maximum variability factor of 5.2 based on the actual performance of eleven (11) plants for which 199 observations were available.

No attempt was made to quantify the individual sources of variability; however, the Agency has determined the magnitude of the aggregate variability. The four sources of variability mentioned by the commenter are necessarily reflected in the measured values upon which the regulation is based. Although it might be of academic value to determine the magnitude of the individual sources of variability, such a determination is not necessary in setting effluent limitations.

Statements by the commenter seem to indicate the commenter's belief that the effluent limitations should be based on the "true" concentration of pollutants. The commenter argues that a discharger could be held in violation of the standards if, due to analytical inaccuracies, a measured concentration of the pollutant was higher than the standard even though the "true" concentration was below the regulated limit. The commenter ignores the fact that the data upon which the standards are based are, of necessity, measured values and therefore incorporate differences between the "true" values and the measured values.

Comment: Concentrated sludge from pretreatment will be more environmentally hazardous than dilute municipal sludge. EPA has not looked at this risk.

Response: The Clean Water Act clearly has adopted the strategy of concentrating pollutants to smaller volumes. The Agency recognizes that the sludges generated from this industry are generally hazardous and must be disposed of properly. However, the quantity of sludge generated by the industry is miniscule in comparison to the quantity of municipal sludge contaminated by toxic pollutants. If these toxic pollutants are removed from municipal sludge, the sludge can be used as a fertilizer.

Comment: The use of an indirect, rigorous, statistical derivation of these limitations based upon an estimated TSS level, a regression equation, and limited effluent data is a highly questionable approach.

Response: In these final limitations, the regression approach was employed only for the common metals within the common metals subcategory. The TSS value is not estimated in this approach; however, the value used is judged to be indicative of the performance of properly operating treatment systems. The approach used all the appropriate data available to the Agency. The Agency disagrees that the approach is highly questionable.

Comment: The data presented in the Development Document do not seem to support the conclusion that the same standards should apply to effluents with and without chelating agents. This aspect of the pretreatment analysis should be given further review.

Response: The Agency agrees that this question merits further review and that the data presented in the 1978 document do not strongly support the cited conclusion. The Agency, consequently, has reexamined the question and has taken a more appropriate approach. Specifically, the Agency derived limitations for electroless plating of nickel and copper in which chelating agents are widely used. When these results were compared to the corresponding limitations for the common metals subcategory, where chelates are not as commonly used, the concentration based limitations for the common metals subcategory were actually somewhat higher. The Agency, therefore, has made a conservative decision to apply the common metals Ni and Cu limitations to all three subcategories.

Comment: The long term average is calculated from all the data while the variability factor is calculated from a subset of the data. This is an inconsistent procedure.

Response: The long term average computations are based on all appropriate data and the variability factor computations are based on a subset of the data. Specifically, variability factors are derived from those plants for which there are at least ten observations available. The Agency rationale is as follows: In the derivations of the limitations, the estimated average for a given plant is equally likely to be above or below the unknown true value for that plant. This assertion follows from the lognormality assumption which has been demonstrated to be reasonable for this and other industries, and this assertion holds irrespective of the number of individual observations on which the average is based. The same assertion, however, does not apply in general to the estimate of a plant level variance, of which the variability factor is a function. For instance, for a given plant the estimate of the variance has two degrees of freedom when it is derived from three individual observations. A direct consequence of the lognormality assumption is that this estimate will fall below the true unknown value with probability 0.64 and above with probability 0.36. These probabilities, of course, approach 0.50 as the number of individual observations increases. Estimates with such properties would bias downward the estimate of the overall single variability factor to be applied across plants. Estimates of plant level variance based on a small number of observations were, therefore, excluded from the variability computations.

Comment: A plater of more than one metal could meet the limitation for each individual metal but not the limitation on total metals. Therefore, the limitation on total metals provides an advantage to a firm which plates a single metal and should be deleted.

Response: For the common metals subcategory, the number of metals plated is a factor in the derivation of the standards. The data base on which the regulation rests indicates that plants can meet both total and individual metals limitations. It could be argued perhaps that the total metals limitation is less stringent for a plant plating one metal than for a multimetal plant, but by the same token, the limitation on the single metal is more stringent for a plant plating that metal than for a multimetal plant. The Agency has determined that standards for individual and total metals are required and are equitable for plants plating one or more metals. Note that under the new limitations the ratio of total metals to the sum of the individual metals has increased over the ratio in the proposed regulations.

Comment: The Roberts-Jackson method for measuring cyanide amenable to chlorination is more accurate than the colorimetric methods used at present. The Agency should collect a new data base using the Roberts-Jackson method before promulgating a regulation.

Response: The Roberts-Jackson method of analysis for amenable cyanide may offer an improvement in accuracy over present methods as suggested by some commenters. Unfortunately, there are at present insufficient data on the performance of this method. Nonetheless, the Agency is continually studying alternative analytical methods. Whenever any method is demonstrated, with a sufficient data base, to provide superior results to an approved method at reasonable cost, its adoption will be considered.

Comment: The analytical methods for detection of certain regulated substances are too inaccurate at the concentrations specified in the regulation. It is claimed that a plater could have a true concentration of a pollutant that was within the regulation but be found to be out of compliance because of analytical error. Particular problems are cited for hexavalent chromium and for cyanides, especially cyanide amenable to chlorination.

Response: It is impossible to observe the true concentration of a pollutant in a practical situation; therefore, the regulation and its enforcement must be based on observed measurements rather than unobservable true values. The standards for concentration are based on methods which the Agency acknowledges to contain error. Nevertheless, the data base on which the regulation rests indicates that well-run plants can consistently achieve effluents for which the measured concentrations of all regulated pollutants, including cyanides and hexavalent chromium, are within the limits. In determining the compliance of an individual plant, the issue is not the exact value of the pollutant but that the true value be low enough that measured levels are within the daily and average limits. A plant which is out of compliance because of analytical error (a case which is not detectable in any practical situation) is at best a marginal plant and is not achieving the effluent quality of which the industry is capable.

Comment: The text is unclear as to whether the term "total precipitable metals in the raw waste load" includes iron and calcium, or whether these, like aluminum, were excluded in the regression analysis. In the event that these and other coagulant aids such as polyelectrolytes were not included in the regression analysis, one would expect the C99/average ratio and the variability factors to be understated.

Response: The "total precipitable metals in the raw waste load" includes Cr (total), zinc, copper, nickel, cadmium, lead, silver, tin, iron, and mercury. The variability factor is a function only of the variability of the effluent metal of interest.

Economics

Comments submitted to EPA on its economic analyis of the impacts of the proposed pretreatment standards fell into three general groups. They were: 1) comments on the data used in the analysis; 2) comments on the economic models used in the analysis; and 3) comments on the interpretation and use of the estimated economic impacts. Each of these three groups is addressed separately below.

I. Comments on the Data

EPA used two primary sources of data in its economic analysis. These were the responses to financial surveys mailed by the Agency to metal finishing operations, and technical data gathered independently by the Agency on plating processes, wastewater characteristics, and the costs and space requirements of pollution control equipment needed to meet the standards. Comments on the data concentrated on costs of compliance, space requirements, and the availability and sufficiency of pollution abatement equipment currently in place in the industry.

A. Costs of Compliance

Of the cost data the Agency used to estimate economic impacts, those to which comments were addressed were: 1) the capital cost of compliance; 2) the operating and maintenance (O&M) costs of compliance; 3) the cost of space for housing pollution abatement equipment; 4) the cost of disposal of sludges generated by water pollution control equipment; and 5) the cost of monitoring to demonstrate compliance.

1. Capital Costs.—Comments on EPA's estimated capital cost of compliance criticized the estimates for their failure to account satisfactorily for installation costs. The costs also were criticized for general understatement of actual costs.

EPA based its cost estimates for pollution control equipment on two sources: the costs reported by metal finishing firms for actual installed equipment that EPA observed and monitored during engineering plant visits, and the quotations of manufacturers of pollution control systems. In both cases, the reported costs reflected the full cost of purchase of the systems, from engineering design of the needs of the individual plants, through purchase and delivery of the equipment, to site preparation, installation, and plumbing modifications. The prices that resulted may seem low to commenters because the costs are reported in 1976 dollars, for consistency with the rest of the analysis.

2. Operation and Maintenance (O&M) Costs.—Several comments addressed EPA's estimation of O&M costs of compliance, either to claim that O&M costs were neglected by the Agency, or to assert that EPA's estimates of O&M costs were too low. Some commenters who felt that the estimates were too low said that depreciation and the cost of routine internal monitoring of equipment performance should have been included as part of O&M costs. Others thought that O&M costs, as a percentage of capital cost, were greater than the 12 percent estimated by the Agency. Some commenters referred to the Agency's Analysis of Economic Impacts of Pretreatment Ordinances on the Metal Finishing Industry in Three Communities, (the Three Cities Study) where O&M costs higher than 12 percent of capital cost were reported.

The Agency explicitly included O&M costs as part of the costs of compliance with the regulation. The cost figures used for estimation of the O&M costs follow common engineering rules for chemical costs and the operating cost of the equipment components. Depreciation was not counted as part of O&M costs, because depreciation was included separately in the analysis of annual costs. The Agency used a straight-line depreciation rule, over the life of the investment loan, to estimate annual depreciation. Depreciation was computed separately from O&M cost to allow flexibility in the decision rules assumed for depreciation.

The cost of monitoring by the plant to determine the treatment performance of equipment was also counted separately, as was the cost of monitoring for compliance reporting (see Section on "The cost of monitoring to demonstrate compliance" below). The Agency believes that the monitoring and reporting schedule required by this regulation will generate sufficient data for internal plant quality control needs. The use of 12 percent of capital cost, as an estimate of O&M costs for the purposes of economic analysis, is based on empirical analysis of the average O&M cost across technical plant models, as a proportion of the capital cost for a treatment system with several individual components. The methods the Agency used to estimate costs in its economic analysis are discussed below, under "Regression Equations for Cost."

The 12 percent of capital cost average is not comparable with the ratios in the Three Cities Study, for two reasons. First, the Agency does not know the

years for which investment costs and O&M costs were reported in all cases. Therefore, it is not possible to compute deflated O&M costs as a percentage of capital costs. In one case, capital costs were quoted in 1970–1971 dollars, but O&M costs were given in 1977 dollars. Second, it is not possible to determine from the responses to questions about O&M in the Three Cities Study whether cost elements were included in O&M that were counted as separate items in the economic analysis. Depreciation is one such expense. Therefore, the Agency is not able to determine the utility of O&M estimates from the Three Cities Study.

3. Space Costs.—Some commenters said that the Agency had underestimated the cost of space for housing pollution control equipment. When space is used for productive or nonproductive purposes, the plant bears the overhead cost of the space, either in rent or in real estate taxes and the cost of not putting the space to other productive uses. Several commenters also claimed that the Agency had not taken into account the cost of external space required for construction of treatment facilities.

In its analysis of economic impacts, the Agency examined plant survey responses to determine, for each plant, whether internal space is available. If any space is available, then the plant already bears an overhead cost for space which is not a result of the requirements of the pretreatment standards. There may still be some economic cost to the use of such space for nonproductive purposes, rather than maintaining its availability for future additions to productive capacity. This cost cannot be estimated accurately by the Agency with the data now available. However, the economic cost will not be an immediate financial burden to the plant, and would not, if estimated, affect the Agency's estimates of potential closure rates, employment losses, or price increases. The question of space availability will be addressed below.

In the case of treatment systems requiring the use of external space, the Agency explicitly included the cost of purchase of land, even though the firm may own idle land already. This cost was computed by multiplying the space requirements of the treatment system by average land prices. Rural land was priced at $2,000 per acre, suburban land at $10,000 per acre, and urban land at $75,000 per acre. This cost is reported in EPA's Economic Analysis of the Proposed Pretreatment Standards (December, 1977), on page F–26.

4. The Cost of Monitoring to Demonstrate Compliance.—Some commenters thought that the Agency had neglected the cost of monitoring necessary for the demonstration of compliance with the pretreatment standards in its economic analysis. This is not the case. The Agency included the cost of sampling and analysis, at $80 per sample, according to a schedule that varies with the daily process wastewater flow of the plant. This monitoring schedule is the same as the schedule now required by the regulation, and the same sampling and analysis costs have been included in the economic analysis (see Economic Analysis of Proposed Pretreatment Standards for Existing Point Sources in the Electroplating Point Source Category (December, 1977), p. F–25).

6. Space Requirements.—Comments on the space requirements for pollution control equipment included claims that in many cases job shops do not have sufficient space available, at any cost, for pollution control equipment.

The Agency took the issue of space constraints into account by costing a diatomaceous filter, rather than a clarifier, for treatment of metals in those urban plants that reported little interior expansion space. This represents the least space-intensive system that is known to be able to achieve the standards at reasonable cost. Those plants that have absolutely no interior expansion space available for addition of pollution control equipment, and no access to adjacent land, may qualify for fundamentally different factor variances from the standards. Section 403.13 of EPA's General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR Part 403, 43 FR 27736 (June 26, 1978), provides for variances from categorical pretreatment standard requirements for plants that have different "Age, size, land availability, and configuration" characteristics from those considered by the Agency in the development of regulations.

7. Equipment in Place.—In its analysis of economic impacts, EPA applied compliance costs to each plant only for necessary equipment that had not already been installed at the plant. If a plant reported in a survey response that a specific treatment component was installed, the Agency assumed in its analysis that no further investment was necessary for the treatment that component was designed to achieve. Several commenters took issue with this assumption, on the ground that the Agency had no information about the treatment performance of the equipment, which was often installed to satisfy local ordinances, and that local ordinances are less stringent than EPA's standards.

Although local ordinances may lead to installation of equipment that is not sufficient to achieve compliance with EPA's standards, commenters did not supply examples of such local ordinances. Data available to the Agency indicate that frequently such local standards are compatible with, or more stringent than, EPA's standards. In cases where local treatment requirements are less stringent than EPA's, there may be instances in which a plant has installed equipment for treatment of its most concentrated wastes only. The requirments of some local standards are so weak that they do not force plants to install pollution abatement equipment at all. The existence of local standards that vary from EPA's standards does not necessarily imply that plants have installed insufficient equipment to achieve EPA's standards.

EPA examined the plant models for which the assumption of sufficient equipment in place was used. The ability of treatment equipment, if properly operated and maintained, to achieve EPA's standards is based on its design flow capacity and the chemistry of the waste streams it is designed to treat. In most cases the chemistry of the waste stream is unlikely to have changed since the treatment equipment was installed. Therefore, the prime measure of treatment equipment suitability is the design flow capacity of the system. EPA analyzed a sample of 205 plant models for potential economic impacts. Of these, ten simultaneously reported equipment in place with a design flow less than 90% of process wastewater flow, received credit for the equipment in place, and fell among the plants not projected to close. Of these ten plants, EPA estimates that two would close even if all reported equipment in place were useless. This would change EPA's estimates of plant closure by less than one percentage point.

Moreover, the Agency's survey did not request plants with diatomaceous filters installed to report the presence of those filters. Although some plants may have considered filters to be "advanced treatment," and reported it as such in their responses, these components were ignored in EPA's evaluation of equipment in place. Thus, the Agency included costs of compliance for some plants that will not actually incur these costs.

II. The Economic Analysis

EPA used two analytical computer models in its economic impact analyses

for the regulation. The first of these models was designed to estimate the costs of compliance for plants subjected to economic and financial analysis. This enabled the Agency to study the economic impacts of the regulation on plants that did not supply sufficient technical information for a detailed engineering analysis of their costs of compliance. The second model the Agency used is an economic impact model designed to identify plants likely to have difficulty with compliance, and to project the financial situations of independent firms after installation of pollution control equipment.

The comments on EPA's economic analysis fell into two categories: 1) comments on the analytical techniques used in the models, and on the methods by which plant model results were projected to national estimates of economic impacts; and 2) comments on the behavioral and financial assumptions used in the analysis.

A. Analytical Techniques

Comments on the analysis addressed the validity of the methods used to assign compliance costs, the empirical verification of closure projections, the estimation of the number of metal finishing establishments, and the statistical techniques by which EPA projected economic impacts for its sample of plant models to estimates of impacts for the entire industry.

1. Regression equations for cost.—One commenter noted that the method of assigning costs to plant models, by regression on the costs and flows for plants in the technical data base, yielded costs that differed from manufacturers' quotations for the same equipment. The commenter felt that EPA's procedure led to a general understatement of cost in the economic analysis.

An examination of available suppliers' quotations for equipment cost shows that the regression results slightly understate suppliers' estimates of cost for plants with relatively lower flow, and slightly overstate suppliers' quotations for plants with larger flows. This comparison is indicative of some variation between EPA's capital cost estimates and actual costs, but is not sufficient to call the Agency's estimates into doubt. The equipment suppliers' quotations shown in EPA's economic analysis of the proposed pretreatment standards (p. G–5) were based on a small, unrepresentative sample of suppliers. Suppliers' quotations vary regionally, and by quality of equipment. The agency's technical analysis included equipment manufacturers' quotations as one element of cost, but did not rely entirely on them. Capital costs of compliance were calculated on the basis of individual plant needs, and then compared with actual costs experienced by electroplaters. The regression analysis used to derive cost estimates for economic analysis yielded the best functional fit of the relationship between system design flow and cost.

2. The closure model.—Two comments addressed the closure model. The first was that the analysis was not a mathematical economic model based on empirical evidence, but a string of associated assumptions about the behavior of electroplaters in response to the regulation. The second was that the model needed to be verified empirically before it could be used to support regulation.

Although the economic analysis model is not a set of linear equations, and is not an econometric model, it is nevertheless a mathematical model. The model expresses the financial decisions facing a firm as algebraic formulae, and compares the results with normative criteria for continued performance of each operation.

Although the model might be given apparent credibility by comparison of its projections with observed behavior of firms in the industry, such a comparison is not possible with data available to the Agency. Furthermore, such a comparison would be inconclusive. Because such a model is necessarily a simplification of the choices facing each firm, and of the rules by which the firm's decisions are made, it cannot capture the unique history and setting of each firm. There are a number of variables that cannot be captured adequately in summary survey responses for the purpose of projecting closure decisions. These include managerial expertise, the commitment of the owners to the firm, perceptions of the firm by its customers and bankers, local economic conditions, the degree of local enforcement, and the possible availability of less expensive second-hand equipment. The number of unquantifiable variables precludes straightforward prediction of the impacts of this regulation.

3. *Estimation of numbers of electroplating job shops.*—Some commenters felt that EPA had underestimated the number of electroplating shops in the United States, and had therefore underestimated the absolute magnitude of the costs and economic impacts of the pretreatment standards. Many of these commenters based their conclusions on estimates of the number of electroplating shops in individual states or regions of the nation, and derived estimates of the total number of metal finishers by extrapolation on the basis of population proportions.

The method of estimating total numbers of electroplating shops by estimating the number in a locality and extrapolating to the national level has two faults. First, the lists of local electroplaters may include misclassified firms, or firms that are no longer in business. This leads to overestimation of the number of local electroplating shops. Furthermore, there may be metal finishing firms that perform processes not covered by the regulations.

Even if estimates of the number of local electroplating shops covered by the regulation are accurate, however, it is difficult to use simple rules for estimating the number of shops in the nation as a whole from the number in a restricted area. The most common method is to use population estimates for the region under consideration, to determine the percentage of the national population that the region represents, and to assume that this percentage applies to the number of electroplating shops in the region as a percentage of the national number of shops. This method relies on a constant number of electroplaters per capita throughout the United States. However, the number of electroplaters per capita varies from state to state. The 1972 Census of Manufactures reports 742 electroplating shops in California (population 20 million), and only 494 in New York (population 18 million). The number of electroplaters per capita in California is 1/26,954, and the number of electroplating shops per capita in New York is 1/36,437. The per capita number of shops in California is 35 percent greater than the corresponding number for New York. The assumption of a constant proportionality between the number of metal finishing shops and population is invalid.

EPA's estimates of the number of electroplating job shops performing processes covered by the regulations are based on the pattern of responses to a survey mailed to a sample of over 2,000 plants listed as metal finishing job shops by Dun's Market Indicators (DMI). The DMI lists approximately 5,000 electroplating job shops, and this number coincides approximately with Census of Manufactures estimates. The pattern of the 444 responses to the survey indicates that roughly 60 percent of those listed perform processes covered by the regulations. The details of the process by which EPA arrived at these estimates are provided in Appendix A of EPA's Economic Analysis of Proposed Pretreatment Standards for Existing Sources in the

Electroplating Point Source Category. This discussion shows that EPA's estimates of the number of electroplating shops are more likely to be accurate than estimates based on local observations.

4. Scaling Sample Results.— Comments on EPA's method of projecting plant model results for a sample of job shops to aggregated economic estimates of impact on the job shop sector of the industry addressed two issues. These were the adequacy of EPA's corrections for non-response bias in its survey results and the appropriateness of the parameters used by EPA to scale sample estimates to population projections.

EPA mailed a financial survey to a sample of job shops. When the responses to the survey were received, the Agency selected a sample of non-respondents to the mail survey, and performed an abbreviated telephone survey of this sample. Responses to both surveys were used for EPA's characterization of the job shop sector.

The comments on this procedure note that there were non-respondents to the telephone survey, who were therefore not included in EPA's data base. The comments suggested that these non-respondents would be smaller, less viable firms, with a higher propensity to fail than the firms that responded to the two surveys.

An associated question of bias was introduced by the fact that EPA performed a telephone survey of only the non-respondents to the mail survey. This group did not include those respondents to the mail survey whose responses were inadequate for the purposes of economic analysis. One commenter felt that the telephone survey sample should have been drawn from a pool that included inadequate mail responses, as well as non-responses to the mail survey.

The second issue addressed by the comments on EPA's scaling method was the examination of parameters for possible corrections of sample results. The Agency determined that no single operating or financial parameter was sufficiently correlated with projected plant closure to allow that use of the variable as a correction factor. The comments suggested that combinations of variables, rather than single parameters, might better be tested for correlation with projected closure. They also suggested that the lack of correlation between variables and projected closure was a result of the structure of the model rather than a reflection of conditions in the industry.

The question of non-response bias can easily be misunderstood. EPA did not use the characteristics of non-respondents and plants with inadequate responses to the mail survey as the basis for its estimates of closure impacts for the industry. The survey responses were designed to characterize the size, structure, and composition of the industry on which the impacts might operate. All of the mail survey respondents were adequate for this purpose, whether their responses were sufficient for closure analysis or not. Therefore, the sample chosen for the telephone survey was correct for characterization, in combination with all mail survey respondents, of the job shop sector of the electroplating industry. The telephone survey achieved a 92 percent response rate, which allowed, even if the non-respondents to the telephone survey were very different from the respondents, considerable accuracy in the estimation of flow, employment and sales distributions across all job shops.

Only if some of the parameters for which data was gathered in the surveys had shown correlations with projected closure would the question of bias in the survey instruments have become important for aggregate job shop closure estimates. In that case, small variations in the distributions of population parameters might influence the aggregate impact estimates. But a thorough statistical examination of the sample of plant models used for closure analysis showed no such correlation. The Agency had no choice, in this situation, but to conclude that the projected closure rate for job shops in the sample was the best choice of an estimated closure rate for the job shop sector as a whole.

The fact that none of the descriptive variables gathered for job shops, such as size, water use, and age, is correlated with projected closures of plants in the financial data base reflects the nature of the job shop sector, rather than the structure of the closure model. Examination of the survey responses shows particularly weak correlations between process wastewater flow, which largely determines cost, and the financial variables that influence a firm's ability to afford capital investment in treatment equipment. Because the sample of firms eligible for closure analysis was relatively small, no conclusive relationships between projected closure and combinations of operating parameters could be established.

B. Assumptions of the Economic Analysis

Four assumptions used in the economic analysis were addressed in the comments. They were: 1) the assumption of owner equity infusion to avert plant closure; 2) the assumption of full cost pass through in each plant, by which revenues were assumed to increase by the amount of treatment costs; 3) the interest rate used in the analysis; and 4) the assumption of the availability of commercial credit for firms with a projected coverage ratio, after compliance, of less than 1.5.

1. Owner equity infusion.—In the economic impact analysis, EPA assumed that plant owners, rather than allow the plating operation to fail, would temporarily reduce their own compensation from the plant, to a level of not less than $15,000 if necessary. The comments directed at this assumption challenged the idea that owners would settle for an annual compensation of $15,000 out of plant revenues. These commenters pointed out that in most cases this income would represent an undesirably low rate of return on the owners' investment, and criticized the choice of $15,000 as an arbitrary and unsupported level to which owners' compensation might be reduced.

One misunderstanding reflected by the comments is the notion that EPA was willing to assume a constant future annual income of as little as $15,000 for each owner in cases where this assumption was invoked. This is not the case. The economic analysis assumed that owners would forego some of their compensation, down to a minimum of $15,000 for one year only, if by so doing they might avoid closure of the job shop, and comply with the pretreatment standards. The owner equity infusion decision rule reflects the personal commitment that would lead a small businessman threatened with failure to accept a reduction in a salary for one year to save this business. Although EPA's selection of $15,000 as the floor amount beyond which salary reductions would not be accepted is not based on data regarding previous owner equity infusions, the $15,000 figure is reasonable. The U.S. Bureau of the Census reports that for 1976, the year in which all economic measurements in the model is taken, 50 percent of all American families lived on less than $15,000 per year ("Money Income of Families and Persons in the United States).

In EPA's closure analysis, the owner equity infusion assumption was invoked 15 times for a sample of 205 plant models. The average amount that these 15 plants needed out of owners' compensation to survive was $10,170. In only two cases did projected salaries for one year go below $16,000. If EPA had chosen $20,000 per year as the minimum

salary floor, closures would have risen by only 1.9 percentage points.

2. Pricing assumptions.—EPA assumed in its economic analysis that each electroplating job shop would pass the cost of compliance on to its customers in the form of price increases. The price increases the Agency assumed were those necessary to raise annual revenue by an amount equal to the annual cost of compliance for each plant. This assumption attracted attention from a number of commenters. The comments were directed at both the magnitude of the average industry price increase that EPA's assumption implied and the associated variability in price increases among platers. Commenters believed that an industry-wide price increase would result in decreased demand for plating services, and consequent decline in industry revenues. Comments also challenged the assumption that some platers could raise prices by more than others, without consequent loss of market share to their competitors.

In its choice of assumptions about pricing behavior, EPA had to make two decisions. The first decision was whether to assume a uniform rate of price increase for all electroplating job shops. The second decision, regardless of the answer to the first, was the selection of a rule by which each plant's price increase should be determined.

A uniform price increase for all producers is a rule that might prevail in an industry like agriculture, characterized by many anonymous producers of undifferentiated goods whose differences in geographic location are small. Neither of these conditions holds in the case of electroplating job shops. The variety of customers and services alone suggests that uniform price increases would be the exception, rather than the norm, for electroplaters. Furthermore, the large size and weight of many of the products that are plated, combined with the small portion of total production costs represented by plating and finishing, suggests that transportation costs can be a large deterrent to competition between platers in widely scattered regions. The pattern of location of electroplaters, close to customers they serve, is a qualitative measure of the cost advantages of geographic proximity.

Since a uniform price increase is not a reasonable assumption, the second decision was on the amount of price increase that each plant could sustain without losing business, either to substitute processes or to its competitors.

The Agency chose to use the assumption that each job shop would increase prices by the amount necessary to increase its revenues by the same amount as its annual costs of compliance. The Agency does not expect that this simplifying assumption will be exactly reflected in the industry's response to the regulation. However, the cost pass through rule is a reasonable choice as a pricing assumption, for several reasons.

First, the assumption falls between two possible patterns of pricing behavior. In a market characterized by pure competition, with many producers of undifferentiated products, the price increase is likely to be uniform. In such a market the more efficient high volume producers would heavily influence the price of the product. For reasons discussed above, this is not a reasonable characterization of the electroplating industry.

In a highly differentiated market, where each producer enjoys partial or complete monopoly power, prices for each firm might be expected to rise until former levels of return on equity and profitability had been reached. Although comments submitted on the pretreatment standards reflected the dependence of some customers on a small number of specialized platers, this model of pricing behavior is not likely to hold uniformity. The pricing rule used in the Agency's analysis allows variable price increases, but does not allow for maintenance of profit rates or percentage returns on investment that prevailed before compliance with the regulation.

Second, the plants for which projected price increases are lowest are those with treatment equipment already in place. If the treatment equipment was installed, as some commenters suggested, to comply with state or municipal pretreatment standards, then these plants will be located in distinct geographical areas, separate from the plants with higher projected price increases. These geographic differences will reduce or eliminate market competition between plants with different increases in production costs.

Third, the projected plant closures are not likely to occur simultaneously. As some plants in each region and product market close, their customers will turn to the remaining job shops for some portion of the plating services that they received from the plants that closed. This process will increase the volume of plating services demanded of job shops that do not close, and make it easier for them to raise prices to the projected levels.

Finally, EPA's pricing assumption leads to an average price increase, weighted by sales, of 7.0 percent. This increase is not expected to lead to a reduction in aggregate levels of plating services demanded, either through customer changes to substitute processes or through a decline in the quantity demanded of the finished goods for which electroplating is one production step. For reasons of durability, appearance, and resistance to corrosion, many products require metal finishing. For most of these products there is no substitute process. Even if all of the increased prices for metal finishing were passed on to consumers of the finished goods, the prices of these goods would increase by less than one percent. This increase is not expected to lead to a noticeable decrease in the quantity demanded of finished goods.

A thorough analysis of pricing behavior in the industry would require detailed information on regional markets for each plating process, and market changes over time. The Agency has determined that such an analysis would be excessively expensive and time consuming. Furthermore, the complexity of pricing decision rules for imperfectly competitive markets would prolong such a study well beyond the time needed to gather data.

The indeterminacy of future industry pricing flexibility leads to a corresponding uncertainty about the degree or direction of the error introduced in the economic analysis by the EPA's pricing assumptions. Job shop plant closures may be underestimated for some regional markets where keen price competition precludes differential price increases among metal finishers. However, EPA may have overestimated plant closures among metal finishers that provide specialized services.

Even if the choice of this pricing assumption were to cause estimates of economic impact to be understated, this effect would be offset by highly conservative assumptions in other parts of the analysis. Most notable among these are the assumptions that none of the adversely affected plants will receive assistance from the Small Business Administration and that these plants will not reduce process wastewater flow at the time of compliance. The latter assumption means that every plant is assumed to purchase equipment large enough to treat present flow whereas, in fact, many plants will be able to reduce flow and thus save on the cost of the equipment. Other conservative assumptions include restricting financing sources to commercial banks, assigning capital costs to plants that reported advanced waste treatment

systems in place and purchasing new rather than used equipment.

4. Credit availability.—EPA assumed in its analysis that sufficient investment credit for installation of treatment equipment would be available from commercial banks, if a simple financial test could be satisfied. The variable used for the test was projected coverage ratio, after investment, i.e., the ratio of cash flow to fixed payment obligations. If a plant's projected coverage ratio was 1.5 or greater, the Agency assumed in its analysis that a bank would make the necessary credit available.

Comments on this assumption pointed out that banks customarily consider a wide variety of financial and other variables in their loan decisions, and concluded that the coverage ratio test was excessively simplistic. The commenters argued that even if the coverage ratio were an appropriate single test, the level that plants would need to achieve in order to receive commercial credit would be higher than 1.5. Several commenters suggested that 2.0 would be a better level of projected coverage ratio to use for a test of credit availability.

EPA is aware that banks do not customarily employ one ratio as a test of the desirability of extending credit to loan applicants. Many of the considerations that banks employ, such as management experience and past credit performance, are difficult to quantify for modeling purposes. Many other data, such as historical financial performance of the applicant's firm, are not available for analysis. The nature of the data, the analytical requirements of the model, and the purpose of the economic study necessitate simplification in the estimation of conditions under which bank loans can be made available. Similar restrictions led to consideration of bank credit only, without regard for other external sources of capital.

Three standard financial measures used to evaluate the creditworthiness of a firm are the current ratio (current assets divided by current liabilities), the capitalization ratio (debt divided by total assets), and the profitability ratio (profit after taxes divided by sales). These ratios capture the financial status of the firm by taking into account the relative levels of liquidity, debt, assets, sales and profits. The coverage ratio, which includes the debt, profits, and cash flow of a firm, covers the most essential of these measures.

Most banks are reluctant to assign independent levels of acceptability to each of the important financial ratios. Instead, bankers are likely to apply their own experience, training and judgment to a simultaneous evaluation of all three ratios, accepting borderline levels for one if the other two seem sound. This practice is not susceptible to analysis by fixed logical decision rules. Therefore, EPA selected the coverage ratio as a proxy for the financial measures embodied in the other three. Examination of 29 plant models whose coverage ratios were close to 1.5 showed that the coverage ratio test led to the same conclusions about the number of closures as the independent use of the financial ratios mentioned above.

The assumption that plant owners would offer personal guarantees in order to receive credit for plants whose projected coverage ratios are 1.5, is based on the strength of commitment to their business that EPA imputed to job shop owners. A plant with a projected coverage ratio of 1.5 is by definition a plant that is projected to be profitable after compliance. The offer of a personal guarantee transfers some of the risk inherent in financial projections from the bank to the owner. The bank, as a lending institution, was assumed to be less willing to accept the added margin of risk than an owner whose knowledge of the firm is better, and whose continuation in business may depend on acceptance of the risk in order to secure a loan. The assumption of personal guarantees by owners is therefore reasonable, if the future operation of a profitable firm depends on it.

III. Use and Interpretation of the Economic Analysis

General comments on EPA's economic analysis fell into two groups: 1) Impacts that EPA did not consider, and 2) mitigating factors for the impacts.

A. Additional Impacts

Comments on impact measures that EPA did not estimate addressed two major areas: 1) Secondary impacts of the regulations on customers of electroplaters, and 2) impacts on industry structure.

1. Secondary Impacts.—The pretreatment standards could affect the economy at large, either through price increases as a direct result of increased costs of production, or through a temporary shortage of essential electroplating services, causing bottlenecks in the production of plated goods, additional price increases for the services of the remaining plants, and, possibly, plant closures in the industries that are customers of electroplaters. Comments on this issue said that EPA failed to consider secondary impacts in its assessment of economic impacts and claimed that the secondary impacts in some local markets could be very high.

A detailed estimate of secondary production, price, employment and closure impacts of the regulation would require extensive data on the markets in which electroplaters operate, including suppliers as well as customers, and a model of the behavior of those markets. A comprehensive analysis of the aggregate impacts on the economy would have to include a study of manufacturers of pollution abatement equipment, and data on the interactions of the customers and suppliers of electroplaters. Either analysis requires more data than the Agency currently possesses. Neither survey responses nor publicly available information are sufficient to allow thorough analysis of the markets for electroplating. Accordingly, the Agency has not performed a quantitative analysis of the secondary economic impacts of the regulation.

There is information available, however, to allow qualitative judgment of the nature and direction of the impacts of the regulation on the customers of electroplaters. Such impacts would be felt through the increased cost of plating services, or the temporary reduction in services available, or both.

EPA estimates the sales-weighted average price increase for electroplating services from job shops to be 7.0 percent. Census data for value added, compiled for aggregate production groups at the four digit SIC level, show that electroplating contributes a small percentage to the cost of production in each group. Electroplating represents less than two percent of the cost of production in most groups and does not exceed 6 percent of the cost of production for any. This means that a 7.0 percent increase in the cost of electroplating represents a price increase of less than 0.14 percent in the final cost of most electroplated goods, and a maximum price increase of 0.42 percent for the aggregated costs of production in any sector.

These price increases should be easily passed through to customers by the industries that employ the services of electroplaters. Because the industries where electroplating is performed contribute only a portion to the sum of goods and services in the entire economy, an average price increase of less than 0.14 percent for electroplated goods is likely to have negligible overall inflationary impacts.

The second way that the regulation can affect consumer industries is through the closure of some electroplating operations, and the

consequent short-term reduction in the availability of electroplating. This may be a problem for some manufacturers, but it is not expected to last long.

The closure of some firms in the industry, and the consequent loss of some percentage of current production, may have several consequences. One national result may be an added inducement to new entrants into the industry, as the demand for electroplating services increases relative to the diminishing supply. Another result will be for plants in compliance with the pretreatment standards to attempt to expand their productive capacity. Another result will be that some manufacturing customers of electroplating job shops will open new captive plating lines, or rely more heavily on the services of existing lines. Even if none of these consequences were to result, data from the plants in EPA's closure sample indicate strongly that plants projected to survive are likely to have sufficient excess capacity already to cover the production lost because of plant closures. The best measure the Agency has of excess capacity is the degree to which those plants that are not projected to close have production lines that are idle through one or more daily work shifts. The Agency does not have data to estimate the excess capacity available within each distinct plating group, or to determine the degree to which periodic peaks in demand will cause difficulty, but the available measures of capacity indicate that production bottlenecks should not be excessive even in the short run.

2. Industry structure.—Some commenters noted that the regulations would result in changes in industry structure, with smaller plants disappearing from the industry and larger plants achieving dominance. Others felt that "small plants" would tend to proliferate.

The Agency believes that the structure of the metal finishing industry may change as a result of the regulation, but does not believe that the nature of the change can be determined from available data. Factors that might encourage a shift to larger independent plants and captive plants include the economies of scale that can be realized in wastewater treatment, and the increased minimum cost of entry to the industry, due to pollution control requirements. The effect of the minimization of treatment requirements for platers with small flow is likely to be the opposite, however, and this may create a balance between the tendencies toward smaller and larger plants. The result may be an increase in smaller plants, or an increase in larger, more efficient plants, or both, with a decrease in the percentage of medium sized plants. The disagreement of commenters on this issue reflects the indeterminancy of the result.

B. Mitigating Factors on Economic Analysis

Several factors not included in EPA's analysis may operate to reduce observed economic impacts of the regulation below EPA's estimates. Two of these were addressed by commenters. They were: 1) the effect of SBA loan programs on economic impacts; and 2) the effect of a three year compliance period for the regulation, as against the single year assumed by EPA in its analysis.

1. SBA loans.—As a supplement to its economic analysis, EPA studied the effect of credit that might be available under SBA's Economic Injury Loan Program on job shop closure estimates. With the assumption of 20-year loans at 6.75 percent interest, the Agency estimates that economic impacts can be significantly reduced. For example, projected job shop closure rates dropped from 19.9 percent to 5.4 percent under the assumption of SBA loans.

Several commenters doubted that Economic Injury Loans would be available to electroplaters. The reasons given in the comments for this skepticism were the amount of paperwork involved to obtain the loans, the lack of sufficient SBA funds, the ineligibility of most electroplaters for the loans, because of low profitability, and the general ignorance of and distrust in SBA programs among electroplaters. As empirical evidence of the problems with the Economic Injury Loan Program, commenters pointed out that only $4 million in loans had been issued for pollution control investments since 1973.

EPA is aware of the problems that electroplaters might encounter with SBA programs, and did not include any assumptions about SBA loans in the primary economic analysis. Because the programs exist and are well funded, the Agency feels that an understanding of the potential assistance that SBA can provide is an essential feature of interpretation of the economic effects of the regulation.

EPA estimates that the total amount required to achieve the reductions in impacts indicated by SBA loan analysis is approximately $65 million. Although this amount is not small, it is far less than $100 million that was appropriated for Economic Injury Loans in Fiscal Year 1979, out of which $4.5 million had been disbursed by July 1, 1979. The appropriate comparison is to the funds available, not the funds already disbursed.

In its analysis of the effects of SBA loans, EPA used the same credit criteria that it used for bank loans. Since Economic Injury Loan applications require two rejections of loan applications from commercial banks, it is likely that EPA substantially underestimated the number of firms that would qualify for Economic Injury Loans.

Problems with perceptions of SBA loan programs, and the reluctance of electroplaters to apply for SBA loans, are matters that require continued effort on the part of EPA and SBA. The two agencies continue to work closely toward improving the efficiency of Economic Injury Loan processing. In addition, EPA is investigating the possibility of engaging the services of private organizations to publicize the loans and expedite the paperwork. EPA's contacts with such intermediary firms have already been initiated, and will continue after promulgation of this regulation.

2. Compliance period.—EPA noted in its economic impact analysis that the study assumed a one-year compliance period for the regulations. Dischargers in the industry have three years to comply with the regulation. This discrepancy is likely to lead to a reduction of observed impacts below EPA's estimates. Comments on this issue said that, since the total amount of investment captial required for compliance would not change, the effect of spreading the investment over three years instead of one would be negligible.

EPA does not believe that significant reductions in estimated plant closures or price increases will necessarily result from the three year compliance period. However, the net effect of a longer compliance period will be to allow firms to schedule their investments efficiently and to allow their customers to adjust to new sources of supply in the event of plant closures. The magnitude of impacts projected by EPA might change only slightly, but the transition to full compliance can be effected in a more orderly fashion over three years than over one.

In consideration of the foregoing, 40 CFR Part 413 is revised to read as follows:

Dated: August 9, 1979.

Douglas M. Costle,

Administrator.

PART 413—ELECTROPLATING POINT SOURCE CATEGORY

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413.60 Applicability: Description of the chemical etching and milling subcategory.
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Subpart G—Electroless Plating Subcategory

413.70 Applicability: Description of the electroless plating subcategory.
413.71 Specialized definitions.
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Subpart H—Printed Circuit Board Subcategory

413.80 Applicability: Description of the printed circuit board subcategory.
413.81 Specialized definitions.
413.84 Pretreatment standards for existing sources.

Authority: Secs. 301, 304(g), 307(b) and (d), 308, 309, 402, 405, 501(a) of the Clean Water Act, as amended (33 U.S.C. §§ 1311, 1314(g), 1317(b) and (d), 1318, 1319, 1322, 1325, and 1341(a)).

General Provisions

§ 413.01 Applicability.

(a) This Part shall apply to any electroplating operations in which metal is electroplated on any basis material and to related metal finishing operations as set forth in the various subparts, whether such operations are conducted in conjunction with electroplating or conducted independently.

(b) Operations similar to electroplating which are specifically excepted from coverage of this Part include: (1) Electrowinning and electrorefining conducted as a part of nonferrous metal smelting and refining (40 CFR 421); (2) Metal surface preparation and conversion coating conducted as a part of coil coating (40 CFR 465); (3) Metal surface preparation and immersion plating or electroless plating conducted as a part of porcelain enameling (40 CFR 466); and (4) electrodeposition of active electrode materials, electroimpregnation, and electroforming conducted as a part of battery manufacturing (40 CFR 461).

(c) Metallic platemaking and gravure cylinder preparation conducted within printing and publishing facilities, and continuous strip electroplating conducted within iron and steel manufacturing facilities which introduce pollutants into a publicly owned treatment works are exempted from the pretreatment standards for existing sources set forth in this Part.

§ 413.02 General definitions.

In addition to the definitions set forth in 40 CFR 401 and the chemical analysis methods set forth in 40 CFR 136, both of which are incorporated herein by reference, the following definitions apply to this Part:

(a) The term "CN,A" shall mean cyanide amenable to chlorination as defined by 40 CFR 136.

(b) The term "CN,T" shall mean cyanide, total.

(c) The term "Cr,VI" shall mean hexavalent chromium.

(d) The term "electroplating process wastewater" shall mean process wastewater generated in operations which are subject to regulation under any of subparts A through H of this Part.

(e) The term "total metal" is defined as the sum of the concentration or mass of Copper (Cu), Nickel (Ni), Chromium (Cr) (total) and Zinc (Zn).

(f) The term "strong chelating agents" is defined as all compounds which, by virtue of their chemical structure and amount present, form soluble metal complexes which are not removed by subsequent metals control techniques such as pH adjustment followed by clarification or filtration.

(g) The term "control authority" is defined as the POTW if it has an approved pretreatment program; in the absence of such a program, the NPDES State if it has an approved pretreatment program or EPA if the State does not have an approved program.

§ 413.03 Monitoring requirements.

(a)(1) Each source subject to the pretreatment standards of this Part shall collect and analyze representative samples of electroplating process wastewater not less frequently than the following self-monitoring schedule:

Self-monitoring schedule

Flow (liters per day)	Frequency of monitoring	Number of analyses[1]
0-38,000	Once per month	6
38,000-190,000	Twice per month	12
190,000-380,000	Once per week	26
380,000-950,000	Twice per week	52
over 950,000	Thrice per week	78

[1] Per 6 month reporting period.

All process wastewaters regulated by Subparts A through H of this Part shall be added together when determining the frequency of self-monitoring.

(2) Each source subject to the pretreatment standards of this Part shall analyze the first representative sample of final effluent taken during each six months reporting period for all pollutants regulated by the appropriate subcategories. If regulated pollutants are found in concentrations less than 0.10 mg/l and the owner or operator attests that such pollutants are not a part of the raw materials or process, then analysis

of such regulated pollutants may be omitted during the remainder of the six month period.

(3) Each source shall retain the data collected during self-monitoring for three years and provide to the control authority as directed.

(4) Chemical analyses shall be performed in accordance with the methods and procedures specified in 40 CFR 136.

(b) For the purpose of enforcement of pretreatment standards, consecutive samples taken and analyzed shall be considered as being taken on consecutive days even though one or more non-sampling days intervene. In applying the pretreatment standards where more than one but less than 30 samples have been taken and analyzed during any month, the following formula shall be used to establish the standard for each pollutant which the average of the samples shall not exceed:

$L_x = L_{30} + F/(L_1 - L_{30})$

Where:

L_x = Standard not to be exceeded by the average of $\times$ consecutive samples.

L_1 = Maximum for any one day.

L_{30} = Standard not to be exceeded by the average of 30 consecutive days.

F = Multiplier for number of samples analyzed (from table below).

Table—Values of F

No. Samples:	F
1	1.00
2	0.597
3	0.430
4	0.335
5	0.266
6	0.223
7	0.186
8	0.167
9	0.141
10	0.127
11	0.114
12	0.109
13	0.089
14	0.077
15	0.064
16	0.058
17	0.052
18	0.045
19	0.039
20	0.033
21	0.030
22	0.026
23	0.023
24	0.020
25	0.016
26	0.013
27	0.010
28	0.007
29	0.003
30	0.000

§ 413.04 Upsets.

The following upset provisions shall apply to process wastewaters introduced into publicly owned treatment works from sources subject to limitations of Subparts A through H of this Part.

(a) "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based pretreatment standards because of factors beyond the reasonable control of the Industrial User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with this standard if the requirements of paragraph (c) are met.

(c) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the User can identify the specific cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;

(3) The User has submitted the following information to its POTW and Control Authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

(i) A description of the indirect discharge and cause of noncompliance;

(ii) The period of noncompliance, including exact dates and times, and/or if not corrected, the anticipated time the noncompliance is expected to continue;

(iii) Steps being taken and planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding the User seeking to establish the occurrence of an upset shall have the burden of proof.

(e) In the usual exercise of prosecutorial discretion, Agency enforcement personnel will ordinarily review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final Agency action subject to judicial review. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based pretreatment standards.

(f) The User shall control production and all discharges upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

§ 413.05 Net/Gross.

Except as provided in paragraphs (a)–(c) of this section, the pretreatment standards shall not be adjusted for pollutants in the intake water.

(a) Any Industrial User wishing to obtain a credit for intake pollutants must apply for it within 60 days after the effective date of this standard. Application shall be made to the Enforcement Office of the EPA region where the User is located. Upon request of the Industrial User, this standard will be calculated on a "net" basis, i.e., adjusted to reflect credit for pollutants in the intake water, if the User demonstrates:

(1) its intake water is drawn from the same body of water into which the discharge from its publicly owned treatment works is made; and

(2) the pollutants present in the intake water will not be entirely removed by the treatment systems operated by the user; and

(3) the pollutants in the intake water do not vary chemically or biologically from the pollutants limited by this standard; and

(4) the User does not significantly increase concentrations of pollutants in the intake water, even if the total amount of pollutants remains the same.

(b) Standards adjusted under this paragraph shall be calculated on the basis of the amount of pollutants present after any treatment steps have been performed on the intake water by or for the discharger. Adjustments under this paragraph shall be given only to the extent that pollutants in the intake water which are limited by this standard are not removed by the treatment technology employed by the discharger.

(c) The EPA Regional Enforcement Office shall require the User to conduct additional monitoring (i.e., for flow and concentration of pollutants) as necessary to determine continued eligibility for and compliance with any adjustments. The User shall notify the Regional Enforcement Office if there are any significant changes in the quantity of the pollutants in the intake water or in the level of water treatment provided.

(d) The EPA Regional Enforcement Office shall consider all timely applications for credits for intake pollutants plus any additional evidence that may have been submitted in response to the EPA's request. The EPA Office shall then make a written determination of the applicable credit(s), if any; state the reasons for its determination; state what additional monitoring is necessary; and send a copy of the determination to the applicant and the applicant's Publicly Owned Treatment Works. The decision

of the Regional Enforcement Office shall be final.

Subpart A—Electroplating of Common Metals Subcategory

§ 413.10 Applicability: Description of the electroplating of common metals subcategory.

The provisions of this subpart apply to discharges of pollutants in process wastewaters resulting from the process in which a ferrous or nonferrous basis material is electroplated with copper, nickel, chromium, zinc, tin, lead, cadmium, iron, aluminum, or any combination thereof.

§ 413.11 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area plated expressed in square meters (square feet).

(b) The term "operation" shall mean any step in the electroplating process in which a metal is electrodeposited on a basis material and which is followed by a rinse; this includes the related operations of alkaline cleaning, acid pickle, stripping, and coloring when each operation is followed by a rinse.

§ 413.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can effect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
Copper	160	80
Nickel	160	80
Cr, Total	160	80
Cr,VI	16	8
Zinc	160	80
CN, Total	160	80
CN, A	16	8
Fluoride	6400	3200
Cadmium	96	48
Lead	160	80
Iron	320	160
Tin	320	160
Phosphorus	320	160
TSS	6400	3200
pH	Within the range 6.0 to 9.5.	
	(English units) pounds per million square feet per operation	
Copper	32.7	16.4
Nickel	32.7	16.4
Cr, Total	32.7	16.4
Cr,VI	3.3	1.6
Zinc	32.7	16.4
CN, Total	32.7	16.4
CN, A	3.3	1.6
Fluoride	1306	654
Cadmium	19.2	9.6
Lead	32.7	16.4
Iron	65.4	32.7
Tin	65.4	32.7
Phosphorus	65.4	32.7
TSS	1308	654
pH	Within the range 6.0 to 9.5.	

(b) The post plating steps of chromating, phosphating and coloring, if followed by a rinse, may be included under the term "operation" for the purpose of calculating effluent discharges, providing such steps are an integral part of the plating line.

(c) Stripping, where followed by a rinse and conducted in conjunction with electroplating for the purpose of salvaging improperly plated parts, may be included under the term "operations" for the purpose of calculating effluent discharges.

(d) Electroless plating on non-metallic materials for the purpose of providing a conductive surface on the basis material, preceding the actual electroplating step, forming an integral step in the plating line and followed by a rinse may be included under the term "operation" for the purpose of calculating effluent discharges.

(e) For any point source subject to such effluent limitations with a total employment of less than 11 persons, with a discharge from the establishment of waste water generated from the metal finishing process of less than 7,800 liters per hour (2,061 gallons per hour) and with a production rate of less than 4.9 sq m per hour per employee (52.7 sq ft per hour per employee), the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
CN, A	16	8
CN, Total	160	80
Flow	Equalize	
pH	Within the range 6.0 to 9.0.	
	(English units) pounds per million square feet per operation	
CN, A	3.3	1.6
CN, Total	32.7	16.4
Flow	Equalize	
pH	Within the range 6.0 to 9.0	

(f) Pursuant to section 308 of the Act, a point sources subject to the provisions of this subpart shall maintain records of production expressed in sq m or sq ft as defined in § 413.11 for the purpose of determining compliance with the effluent limitations in § 413.12(a). For the purpose of complying with the requirements of this paragraph, a discharger may establish a correlation between area plated and another parameter, such as ampere-hours used in plating.

Note.—At 41 FR 53018, Dec. 3, 1976, § 413.12 was suspended indefinitely.

§ 413.14 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section

307(b) of the Act for a source within the common metals subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the common metals subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart. After October 12, 1982:

(a) No User introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may be applied in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	29	9
Cu	176	70
Ni	160	70
Cr	273	98
Zn	164	70
Pb	23	12
Cd	47	20
Total metals	410	195

(e) For wastewater sources regulated under paragraph (c) of this section, the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes, and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0.	

Subpart B—Electroplating of Precious Metals Subcategory

§ 413.20 Applicability: Description of the electroplating of precious metals subcategory.

The provisions of this subpart apply to indirect discharges of process wastewaters resulting from the process in which a ferrous or nonferrous basis material is plated with gold, silver, iridium, palladium, platinum, rhodium, ruthenium, or any combination of these.

§ 413.21 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area plated expressed in square meters (square feet).

(b) The term "operation" shall mean any step in the electroplating process in which a metal is electrodeposited on a basis material and which is followed by a rinse: this includes the related operations of alkaline cleaning, acid pickle, stripping, and coloring when each operation is followed by a rinse.

§ 413.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can effect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
Copper	160	80
Nickel	160	80
Cr, Total	160	80
CrVI	16	8
Zinc	160	80
CN, Total	160	80
CN, A	16	8
Fluoride	6400	3200
Cadmium	96	48
Lead	160	80
Iron	320	160
Tin	320	160
Phosphorus	320	160
TSS	6400	3200
pH	Within the range of 6.0 to 9.5.	
	(English units) pounds per million square feet per operation	
Copper	32.7	16.4
Nickel	32.7	16.4
Cr, Total	32.7	16.4
CrVI	3.3	1.6
Zinc	32.7	16.4
CN, Total	32.7	16.4
CN, A	3.3	1.6
Fluoride	1308	654
Cadmium	19.2	9.6
Lead	32.7	16.4
Iron	65.4	32.7
Tin	65.4	32.7
Phosphorus	65.4	32.7
TSS	1308	654
pH	Within the range of 6.0 to 9.5.	

(b) The post plating steps of chromating, phosphating and coloring, if followed by a rinse, may be included under the term "operation" for the purpose of calculating effluent discharges, providing such steps are an integral part of the plating line.

(c) Stripping, where followed by a rinse and conducted in conjunction with electroplating for the purpose of salvaging improperly plated parts, may be included under the term "operations" for the purpose of calculating effluent discharges.

(d) Electroless plating on non-metallic materials for the purpose of providing a conductive surface on the basis material, preceding the actual electroplating step, forming an integral step in the plating line and followed by a rinse may be included under the term "operation" for the purpose of calculating effluent discharges.

(e) For any point source subject to such effluent limitations with a total employment of less than 11 persons, with a discharge from the establishment of waste water generated from the metal finishing process of less than 7,800 liters per hour (2,061 gallons per hour) and with a production rate of less than 4.9 sq m per hour per employee (52.7 sq ft per hour per employee), the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
CN, A	16	8
CN, Total	160	80
Flow	Equalize	
pH	Within the range 6.0 to 9.0	
	(English units) pounds per million square feet per operation	
CN, A	3.3	1.6
CN, Total	32.7	16.4
Flow	Equalize	
pH	Within the range 6.0 to 9.0	

(f) Pursuant to section 308 of the Act, a point sources subject to the provisions of this subpart shall maintain records of production expressed in sq m or sq ft as defined in § 413.11 for the purpose of determining compliance with the effluent limitations in § 413.12(a). For the purpose of complying with the requirements of this paragraph, a discharger may establish a correlation between area plated and another parameter, such as ampere-hours used in plating.

Note.—At 41 FR 53018, Dec. 3, 1976, § 413.22 was suspended indefinitely.

§ 413.24 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the electroplating of precious metals subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the electroplating of precious metals subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart. After October 12, 1982:

(a) No user introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitoring days shall not exceed—
Ag	1.2	0.5
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation): Maximum for any 1 day	Pretreatment standard (mg/sq m-operation): Average of daily values for 30 consecutive monitoring days shall not exceed—
Ag	47	20
CN,T	29	9
Cu	176	70
Ni	160	70
Cr	273	98
Zn	164	70
Pb	23	12
Cd	47	20
Total metals	410	195

(e) For wastewater sources regulated under paragraph (c) of this section, the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes and after neutralization using

calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.54
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0	

Subpart C—Electroplating of Specialty Metals Subcategory [Reserved]

Subpart D—Anodizing Subcategory

§ 413.40 Applicability: Description of the anodizing subcategory.

The provisions of this subpart apply to discharges of process wastewater resulting from the anodizing of ferrous or nonferrous materials.

§ 413.41 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area plated expressed in square meters (square feet).

(b) The term "operation" shall mean any step in the anodizing process in which a metal is cleaned, anodized, or colored when each such step is followed by a rinse.

§ 413.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, maunufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
Copper	160	80
Nickel	160	80
Cr, Total	160	80
CrVI	16	8
Zinc	160	80
CN, Total	160	80
CN, A	16	8
Fluoride	6400	3200
Cadmium	96	48
Lead	160	80
Iron	320	160
Tin	320	160
Phosphorus	320	160
TSS	6400	3200
pH	Within the range 6.0 to 9.5	
	(English units) pounds per million square feet per operation	
Copper	32.7	16.4
Nickel	32.7	16.4
Cr, Total	32.7	16.4
CrVI	3.3	1.6
Zinc	32.7	16.4
CN, Total	32.7	16.4
CN, A	3.3	1.6
Fluoride	1308	654
Cadmium	19.2	9.6
Lead	32.7	16.4
Iron	65.4	32.7
Tin	65.4	32.7
Phosphorus	65.4	32.7
TSS	1308	654
pH	Within the range 6.0 to 9.5	

(b) The post plating steps of chromating, phosphating and coloring, if followed by a rinse, may be included under the term "operation" for the purpose of calculating effluent discharges, providing such steps are an integral part of the plating line.

(c) Stripping, where followed by a rinse and conducted in conjunction with electroplating for the purpose of salvaging improperly plated parts, may be included under the term "operations" for the purpose of calculating effluent discharges.

(d) Electroless plating on non-metallic materials for the purpose of providing a conductive surface on the basis material, preceding the actual electroplating step, forming an integral step in the plating line and followed by a rinse may be included under the term "operation" for the purpose of calculating effluent discharges.

(e) For any point source subject to such effluent limitations with a total employment of less than 11 persons, with a discharge from the establishment of waste water generated from the metal finishing process of less than 7,800 liters per hour (2,061 gallons per hour) and with a production rate of less than 4.9 sq m per hour per employee (52.7 sq ft per hour per employee), the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
CN, A	16	8
CN, Total	160	80
Flow	Equalize	
pH	Within the range 6.0 to 9.0	
	(English units) pounds per million square feet per operation	
CN, A	3.3	1.6
CN, Total	32.7	16.4
Flow	Equalize	
pH	Within the range 6.0 to 9.0	

(f) Pursuant to section 308 of the Act, a point source subject to the provisions of this subpart shall maintain records of production expressed in sq m or sq ft as defined in § 413.11 for the purpose of determining compliance with the effluent limitations in § 413.12(a). For the purpose of complying with the requirements of this paragraph, a discharger may establish a correlation between area plated and another parameter, such as ampere-hours used in plating.

Note.—At 41 FR 53018, Dec. 3, 1976, § 413.42 was suspended indefinitely.

§ 413.44 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the anodizing subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the anodizing subcategory establish the concentration of polluants or polluant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart. After October 12, 1982:

(a) No User introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	29	9
Cu	176	70
Ni	160	70
Cr	273	98
Zn	164	70
Pb	23	12
Cd	47	20
Total metals	410	195

(e) For wastewater sources regulated under paragraph (c) of this section, the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatent works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0.	

Subpart E—Coatings Subcategory

§ 413.50 Applicability: Description of the coatings subcategory.

The provisions of this subpart apply to discharges resulting from the chromating, phosphating or immersion plating on ferrous or nonferrous materials.

§ 413.51 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area processed expressed in square meters (square feet).

(b) The term "operation" shall mean any step in the coating process in which a basis material surface is acted upon by a process solution and which is followed by a rinse; plus the related operations of alkaline cleaning, acid pickle, and sealing, when each operation is followed by a rinse.

§ 413.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can effect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establisb for the discharger effluent limitations in NDPES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed
	(Metric units) milligrams per square meters per operation	
Copper	160	80
Nickel	160	80
Cr, Total	160	80
CrVI	16	8
Zinc	160	80
CN, Total	160	80
CN, A	16	8
Fluoride	6400	3200
Cadmium	96	48
Lead	160	80
Iron	320	160
Tin	320	160
Phosphorus	320	160
TSS	6400	3200
pH	Within the range 6.0 to 9.5.	
	(English units) pounds per million square feet per operation	
Copper	32.7	16.4
Nickel	32.7	16.4
Cr, Total	32.7	16.4
CrVI	3.3	1.6
Zinc	32.7	16.4
CN, Total	32.7	16.4
CN, A	3.3	1.6
Fluoride	1308	654
Cadmium	19.2	9.6
Lead	32.7	16.4
Iron	65.4	32.7
Tin	654	32.7
Phosphorus	654	32.7
TSS	1308	654
pH	Within the range 6.0 to 9.5.	

(b) The post plating steps of chromating, phosphating and coloring, if followed by a rinse, may be included under the term "operation" for the purpose of calculating effluent discharges, providing such steps are an integral part of the plating line.

(c) Stripping, where followed by a rinse and conducted in conjunction with electroplating for the purpose of salvaging improperly plated parts, may be included under the term "operations" for the purpose of calculating effluent discharges.

(d) Electroless plating on non-metallic materials for the purpose of providing a conductive surface on the basis material, preceding the actual electroplating step, forming an integral step in the plating line and followed by a rinse may be included under the term "operation" for the purpose of calculating effluent discharges.

(e) For any point source subject to such effluent limitations with a total employment of less than 11 persons, with a discharge from the establishment of waste water generated from the metal finishing process of less than 7,800 liters per hour (2,061 gallons per hour) and with a production rate of less than 4.9 sq m per hour per employee (52.7 sq ft per hour per employee), the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(metric units) milligrams per square meters per operation	
CN, A	16	8
CN, Total	160	80
Flow	Equalize	
pH	Within the range 6.0 to 9.0.	
	(English units) pounds per million square feet per operation	
CN, A	3.3	1.6
CN, Total	32.7	16.4
Flow	Equalize	
pH	Within the range 6.0 to 9.0.	

(f) Pursuant to section 308 of the Act, a point sources subject to the provisions of this subpart shall maintain records of production expressed in sq m or sq ft as defined in § 413.11 for the purpose of determining compliance with the effluent limitations in § 413.12(a). For the purpose of complying with the requirements of this paragraph, a discharger may establish a correlation between area plated and another parameter, such as ampere-hours used in plating.

Note.—At 41 FR 53018, Dec. 3, 1976, § 413.52 was suspended indefinitely.

§ 413.54 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the coatings subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the coatings subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicy owned treatment works by a source subject to the provisions of this subpart. After October 12, 1982:

(a) No user introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 liters (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation): Maximum for any 1 day	Pretreatment standard (mg/sq m-operation): Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	30	9
Cu	170	69
Ni	162	69
Cr	285	100
Zn	162	69
Pb	22	10
Cd	50	22
Total metals	410	198

(e) For wastewater sources regulated under paragraph (c) of this section the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes and after neutralization using

calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/1) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0.	

Subpart F—Chemical Etching and Milling Subcategory

§ 413.60 Applicability; Description of the chemical etching and milling subcategory.

The provisions of this subpart apply to discharges of process wastewaters resulting from the chemical milling or etching of ferrous or nonferrous materials.

§ 413.61 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area exposed to process chemicals expressed in square meters (square feet).

(b) The term "operation" shall mean any step in the chemical milling or etching processes in which metal is chemically or electrochemically removed from the work piece and which is followed by a rinse; this includes related metal cleaning operations which preceded chemical milling or etching, when each operation is followed by a rinse.

§ 413.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can effect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
Copper	160	80
Nickel	160	80
Cr, Total	160	80
CrVI	16	8
Zinc	160	80
CN, Total	160	80
CN, A	16	8
Fluoride	6400	3200
Cadmium	96	48
Lead	160	80
Iron	320	160
Tin	320	160
Phosphorus	320	160
TSS	6400	3200
pH	Within the range 6.0 to 9.5.	
	(English units) pounds per million square feet per operation	
Copper	32.7	16.4
Nickel	32.7	16.4
Cr, Total	32.7	16.4
CrVI	3.3	1.6
Zinc	32.7	16.4
CN, Total	32.7	16.4
CN, A	3.3	1.6
Fluoride	1308	654
Cadmium	19.2	9.5
Lead	32.7	16.4
Iron	65.4	32.7
Tin	65.4	32.7
Phosphorus	65.4	32.7
TSS	1308	654
ph	Within the range 6.0 to 9.5.	

(b) The post plating steps of chromating, phosphating and coloring, if followed by a rinse, may be included under the term "operation" for the purpose of calculating effluent discharges, providing such steps are an integral part of the plating line.

(c) Stripping, where followed by a rinse and conducted in conjunction with electroplating for the purpose of salvaging improperly plated parts, may be included under the term "operations" for the purpose of calculating effluent discharges.

(d) Electroless plating on non-metallic materials for the purpose of providing a conductive surface on the basis material, preceding the actual electroplating step, forming an integral step in the plating line and followed by a rinse may be included under the term "operation" for the purpose of calculating effluent discharges.

(e) For any point source subject to such effluent limitations with a total employment of less than 11 persons, with a discharge from the establishment of waste water generated from the metal finishing process of less than 7,800 liters per hour (2,061 gallons per hour) and with a production rate of less than 4.9 sq m per hour per employee (52.7 sq ft per hour per employee), the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
CN, A	16	8
CN, Total	160	80
Flow	Equalize	
pH	Within the range 6.0 to 9.0.	
	(English units) pounds per million square feet per operation	
CN, A	3.3	1.6
CN, Total	32.7	16.4
Flow	Equalize	
pH	Within the range 6.0 to 9.0.	

(f) Pursuant to section 308 of the Act, a point sources subject to the provisions of this subpart shall maintain records of production expressed in sq m or sq ft as defined in § 413.11 for the purpose of

determining compliance with the effluent limitations in § 413.12(a). For the purpose of complying with the requirements of this paragraph, a discharger may establish a correlation between area plated and another parameter, such as ampere-hours used in plating.

Note.—At 41 FR 53018. Dec. 3, 1976, § 413.62 was suspended indefinitely.

§ 413.64 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the chemical milling and etching subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the chemical milling and etching subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

After October 12, 1982:

(a) No User introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	29	9
Cu	176	70
Ni	160	70
Cr	273	98
Zn	164	70
Pb	23	12
Cd	47	20
Total metals	410	195

(e) For wastewater sources regulated under paragraph (c) of this section the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.6	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0.	

Subpart G—Electroless Plating Subcategory

§ 413.70 Applicability: Description of the electroless plating subcategory.

The provisions of this subpart apply to discharges resulting from the electroless plating of a metallic layer on a metallic or nonmetallic substrate.

§ 413.71 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area plated expressed in square meters (square feet).

(b) The term "electroless plating" shall mean the deposition of conductive material from an autocatalytic plating solution without application of electrical current.

(c) The term "operation" shall mean any step in the electroless plating process in which a metal is deposited on a basis material and which is followed by a rinse; this includes the related operations of alkaline cleaning, acid pickle, and stripping, when each operation is followed by a rinse.

§ 413.74 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the electroplating of electroless plating subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the electroless plating subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

After October 12, 1982:

(a) No User introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	29	9
Cu	176	70
Ni	160	70
Cr	273	98
Zn	164	70
Pb	23	12
Cd	47	20
Total metals	410	195

(e) For wastewater sources regulated under paragraph (c) of this section, the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0.	

Subpart H—Printed Circuit Board Subcategory

§ 413.80 Applicability: Description of the printed circuit board subcategory.

The provisions of this subpart apply to the manufacture of printed circuit boards, including all manufacturing operations required or used to convert an insulating substrate to a finished printed circuit board. The provisions set forth in other subparts of this category are not applicable to the manufacture of printed circuit boards.

§ 413.81 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area of the printed circuit board immersed in an aqueous process bath.

(b) The term "operation" shall mean any step in the printed circuit board manufacturing process in which the board is immersed in an aqueous process bath which is followed by a rinse.

§ 413.84 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the printed circuit board subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the printed circuit board subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart. After October 12, 1982:

(a) No User introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	67	20
Cu	401	160
Ni	365	160
Cr	623	223
Zn	374	160
Pb	53	27
Cd	107	45
Total metals	935	445

(e) For wastewater sources regulated under paragraph (c) of this section, the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chrom

wastes and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0	

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Part V

Department of Energy

Water Heaters; Final Rule Amending Test Procedures

DEPARTMENT OF ENERGY

10 CFR Part 430

Energy Conservation Program for Consumer Products; Final Rulemaking Amending Test Procedures for Water Heaters

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy amends its test procedures for water heaters to specify a new measure of water heater capacity, first hour rating. These test procedures are a part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, which requires that standard methods of testing be prescribed for covered products.

EFFECTIVE DATE: October 9, 1979.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

A. Background

Title III, Part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163) established an energy conservation program for consumer products. As part of this program, section 323 (42 U.S.C. 6293) of the Act requires that standard methods of testing to determine estimated annual operating cost and at least one other useful measure of energy consumption be prescribed for certain products, including water heaters.

Test procedures for water heaters were proposed by notice issued April 21, 1977 (42 FR 21576, April 27, 1977). Final test procedures for water heaters were prescribed on September 27, 1977 (42 FR 54110, October 4, 1977). DOE amended the test procedures for water heaters by notice issued October 13, 1978 (43 FR 48986, October 19, 1978) in order to specify a new method of determining the measure of efficiency of water heaters.

When originally proposed on April 21, 1977, the test procedures for water heaters included the measures of hot water supply rating and recovery rate. Hot water supply rating was a measure of the maximum amount of hot water that a water heater could provide in one hour. Recovery rate was a measure of the rate at which a water heater could heat water. Both of these measures were included in the original proposed test procedures because they were likely to assist consumers in making purchasing decisions.

At the public hearing on the original proposed water heater test procedures, members of the water heater industry argued that, because of the way the term "basic model" was defined, the test procedures as proposed were unduly burdensome for the testing of electric water heaters with immersed heating elements. The proposed definition would have required the testing of a large number of models.

After reviewing those comments, a decision was made to revise the definition of a water heater basic model for the final test procedures to exclude immersed heating elements from consideration as a distinguishing feature of a basic model. This revision of the definition of a water heater basic model solved the burdensome issue but made the proposed method for the determination of hot water supply rating unworkable.

Since hot water supply rating was a useful measure of the capacity of a water heater, members of the water heater industry expressed concern over the possible loss of this measure. They commented that the hot water supply rating of an electric water heater with immersed heating elements could be predicted by calculation; however, they had no such calculation method to present at the time, nor did they submit any data from which a hot water supply rating calculation method might be developed.

While the development of a method for predicting the hot water supply rating of such a water heater was considered feasible, it was found that, lacking a proven hot water supply rating calculation method and test data from which to attempt to develop such a method, the proposed measure, hot water supply rating, had to be deleted from the final test procedures for water heaters. However, a statement was included in the notice of the final rule on test procedures to the effect that further investigations into methods for the calculation of hot water supply rating or for the determination of some other measure of hot water delivery performance for water heaters would be made. It was further stated that the water heater industry and other interested parties were invited to participate in these investigations.

No comments on the original proposed test procedures for water heaters addressed the measure of recovery rate. This measure, sometimes referred to as "recovery capacity," accounted for the combined effect of a water heater's power input and recovery efficiency on the rate at which the water heater could heat water. In the proposed test procedures, recovery rate was to be determined independently of hot water supply rating and was intended to serve as a useful measure of the rate at which a water heater could recover from a large hot water draw.

Revising the definition of a water heater basic model also made the proposed method for the determination of recovery rate unworkable. Again, lacking a proven recovery rate calculation method and the test data from which to attempt to develop such a method, this proposed measure, like hot water supply rating, had to be deleted from the final test procedures.

The investigation into methods for the prediction of hot water supply rating and recovery rate for the determination of some other measure of hot water delivery performance for water heaters was concluded by DOE at about the same time that two events occurred which reaffirmed the need for such measures to be included in the test procedures for water heaters. The first of these events was the release of the Federal Trade Commission's (FTC) final staff report on FTC's proposed rule concerning disclosure of energy cost and consumption information in labeling and advertising of consumer products. This report was released on February 12, 1979. In it, FTC made the following statement in the section dealing with the determination of the capacity of consumer products covered by the proposed rule:

> "Historically, gas and oil water heater sales are based on recovery capacity, while electric water heater comparisons are based on storage capacity. Some participants [in the public hearing and written comments] argued that the traditional methods of comparing water heaters are unsatisfactory. A system that reflects the energy needed both to store and to replace consumed hot water is more informative than one that measures only storage or recovery. The Recommended Rule reservedly bases capacity on tank storage, in accordance with current DOE test procedures. If the Department of Energy prescribes methods of measuring first hour recovery rates or hot water supply ratings before the Commission issues the final labeling rule, staff recommends that the final rule reflect the DOE procedure for measuring capacity in effect at that time."

The second event was the series of six public meetings held on DOE's advanced notice of proposed rulemaking regarding energy efficiency standards for nine types of consumer products. These public meetings were held over

the period January 26 to February 8, 1979. Four of the participants in these public meetings, all representatives of the water heater industry, made statements to the effect that DOE should use first hour rating as the measure of the capacity of a water heater and issue minimum energy efficiency standards which are a function of this capacity measure. (As it is used here, first hour rating can be considered to be equivalent to hot water supply rating.) These commenters claimed that the establishment of an energy efficiency standard based on a fixed energy factor value for water heaters of a given energy source would impose a more stringent requirement on water heaters with large tank volumes than those with small tank volumes. Such an approach would discriminate against water heaters with large tank volumes. It was pointed out that water heaters with large tank volumes provide a utility which cannot always be matched by those with smaller tank volumes, particularly in the case of electric water heaters. Commenters argued that consumers need electric water heaters with large tank volumes to satisfy their hot water needs in order to take advantage of off-peak or time-of-day electric utility rates to reduce their water heating energy bill.

By notice issued May 3, 1979 (44 FR 27191, May 9, 1979), DOE, in an effort to develop a more useful measure of water heater capacity, proposed to amend the test procedures for water heaters to incorporate two new measures, recovery rate and first hour rating.

Recovery rate, as proposed, was the same as it appeared in the original proposed test procedures except that a new method of determining the power input of an electric water heater with immersed heating elements was specified. Also, as proposed, recovery rate was to be used in the determination of first hour rating.

First hour rating, as proposed, was a measure conceptually equivalent to hot water supply rating as it appeared in the original proposed test procedures for water heaters. This new name for the measure was deemed more descriptive since it both identified the time base of the measure, an hour, and by the use of the term "first," implied that the measure was only indicative of the performance of the water heater during its "first" hour of operation. While the consumer will not know the conditions for the determination of this measure, it is sufficient that the term will discourage the interpretation of the measure as a rate of hot water delivery performance which the water heater can maintain hour after hour. The proposed method for determining first hour rating differed from that originally proposed for determining hot water supply rating. Hot water supply rating was to be determined entirely by test. First hour rating, as proposed, was to be determined partially by test and partially by calculation. This new method for determining the measure was intended to reduce the test burden without sacrificing accuracy.

A public hearing on the proposed amendment was held on June 27, 1979.

B. Discussion of Comments

Three speakers, all representatives of the water heater industry, testified on the proposed amendment to the test procedures for water heaters at the public hearing. Six written comments concerning the proposed amendment had been received by July 18, 1979. Five of the written comments were submitted by representatives of the water heater industry. The sixth was submitted by a water heater retailer. Although some of these written comments were received after the close of the written comment period on July 9, 1979, all were considered in the development of this final rule.

The following is a discussion of the issues raised in the testimony presented at the public hearing and in the written comments submitted to the docket. The comments have been analyzed by topic, rather than source, since in many cases the same or similar comments were received from more than one source.

1. *First hour rating and the Federal Trade Commission's labeling rule.* All commenters expressed the concern that DOE was proposing to amend its test procedures for water heaters to specify a new measure of capacity, first hour rating, at a time when FTC was preparing to issue a final rule for the labeling of water heaters which would require the disclosure of a different measure of capacity, storage capacity. This concern prompted most of the comments submitted.

Several commenters addressed the need for using first hour rating as the measure of the capacity of a water heater. First hour rating was cited as a true measure of a water heater's ability to do work, i.e., deliver hot water on demand, and the measure which should serve as the basis for making meaningful comparisions between all types of water heaters. It was remarked that storage capacity, the only measure of the capacity of a water heater included in DOE's test procedures at the time, suffices only as a measure of a water heater's ability to store water. While commenters acknowledged that consumers would usually be able to make meaningful comparisons between water heaters of like energy source on the basis of storage capacity, they pointed out that meaningful comparisons could not be made between water heaters of different energy sources based on storage capacity alone. The basis for the commenters' remarks concerns the contribution of a water heater's recovery rate to its hot water delivery performance. Typically, for water heaters of like energy source and like storage capacity, recovery rate will not vary greatly. Therefore, the contribution of recovery rate to the hot water delivery performance of water heaters of like energy source may be accounted for implicitly in the approach taken to "size" a water heater to a given application. However, a different sizing approach would have to be used for each water heater energy source since the contribution of recovery rate to hot water delivery performance will usually vary greatly between water heaters of like storage capacity but different energy sources. Typically, an electric water heater has a much lower recovery rate than a gas water heater which, in turn, typically has a much lower recovery rate than an oil water heater. Thus for a given application, the sizing approach that is appropriate for gas water heaters may indicate that a unit with a storage capacity of 30 gallons would suffice while the sizing approach that is appropriate for electric water heaters may indicate that a unit with a storage capacity of 50 gallons would be required. To present a different sizing approach for each water heater energy source for the purpose of enabling consumers to make comparisons between water heaters of different energy sources would complicate the water heater labels and the consumer education process associated with the labeling program. Using first hour rating, valid comparisons may be made between water heaters of both like and unlike energy sources. Adopting first hour rating as the measure of the capacity of a water heater would avoid all of the difficulties described above.

Several comments were made to the effect that DOE should not amend the test procedures for water heaters to specify the new measure, first hour rating, if FTC, prior to issuing its final labeling rule, is not going to replace storage capacity with first hour rating as the measure of the capacity of a water heater. It was argued that such an amendment to the test procedures for water heaters would be pointless if FTC were not to require the disclosure of the

new measure on the label for water heaters.

Also of concern was the prospect that FTC might proceed with issuing its final labeling rule utilizing storage capacity as the measure of the capacity of a water heater and then revise it at some future date in order to require the use of first hour rating in place of storage capacity. It was argued that such a switch in the labeling requirement would disrupt consumer education programs based on the original labels and confuse the consumer. During such a transition period consumers might attempt to make comparisons between water heaters when some might bear a label disclosing storage capacity while the labels on other water heaters might disclose first hour rating. Commenters also remarked that such a switch would impose additional costs associated with the printing of new labels for water heaters. These cost would have to be passed on to consumers.

Concern was also expressed over the possibility that FTC might delay the labeling rule for water heaters if DOE were to finalize its test for first hour rating as it was proposed. The water heater industry projected that a delay of the labeling rule for water heaters would severely complicate the consumer education process regarding the use of the consumer product labels.

FTC staff attended DOE's public hearing regarding its proposed amendment to the test procedures for water heaters. Additionally, FTC staff has been provided with copies of all submissions to the docket regarding this proposed rulemaking. DOE and FTC staff have discussed the issues raised in testimony at the public hearing and in submissions to the docket which concern the FTC labeling program. FTC staff has indicated that they continue to support their recommendation to the (Federal Trade) Commission that the final labeling rule for water heaters should reflect the DOE procedure for measuring water heater capacity in effect at the time that the labeling rule is issued. Following these discussions, DOE staff resolved to issue a final rule to amend its test procedures for water heaters in time to permit FTC to adopt first hour rating in place of storage capacity as the measure of the capacity of a water heater and issue its final labeling rule with no delay in schedule. The timing of today's issuance has been coordinated with FTC staff to assure avoidance of the potential problems discussed above.

2. *The burden of testing and methods for determining first hour rating.* All of the water heater manufacturers who submitted comments claimed that the proposed amendment would impose a substantial test burden on the water heater industry. The burden that was of concern was not the incremental additional test time and cost of determining first hour rating as part of a complete test of a water heater in accordance with the existing test procedures, but the burden of having to test a water heater solely to determine its first hour rating. In anticipation of FTC's labeling requirement, the water heater manufacturers claimed that they had already commenced, and to a large extent completed, testing water heaters in accordance with DOE's test procedures. This testing has been done in order to be able to supply FTC with the energy consumption and cost of operation figures which manufacturers expect FTC to require to be submitted 60 days after the issuance of its final labeling rule. DOE's proposed amendment would, if finalized, require that manufacturers perform the proposed first hour rating test on all of the models of water heaters for which the tests for energy consumption and cost of operation had been completed. The effort and expense of such further testing would impose a burden significantly greater than the burden that would have been sustained had the tests for first hour rating been performed at the same time as all other tests.

Comments were made that the timing of DOE's rule to amend the test procedures and FTC's rule to prescribe labels for water heaters would impose an unreasonable test burden. If DOE were to issue its final rule to amend the test procedures for water heaters as it was proposed and in time for FTC to revise its rule prescribing labels for water heaters, the water heater industry could have as little as 60 days in which to accomplish all testing in order to be able to present the test results to FTC on time.

While some manufacturers said that it would be possible for them to meet such a requirement should it be imposed, a trade association for members of the water heater industry expressed concern for other manufacturers, particularly those with limited test facilities or none at all. The trade association claimed that water heater manufacturers would need six months to conduct the tests once they were published.

It was further remarked that such a test requirement would not only impose significant test costs which would be passed on to consumers, but it would also divert manpower and resources from product development work on new energy efficient designs of water heaters. Several cost estimates were presented for such a retesting program. The trade association estimated the cost to be as high as $18,000 per company. One manufacturer estimated labor costs at $27,000 and an additional $19,000 expense to reclaim the test units for sale. Another manufacturer estimated his test cost at $12,000 and commented that his firm would have to build units expressly for test purposes since his firm manufacturs to order and not to stock. A third manufacturer estimated his additional test cost would be at least $10,000.

Concern was also expressed over the possibility that, in order to provide more time for completing required testing, FTC might delay the labeling rule for water heaters if DOE were to finalize its test for first hour rating as it was proposed. Commenters projected that a delay of the labeling rule for water heaters would severely complicate the consumer education process regarding the use of consumer product labels.

The manufacturers commented that none of these problems which they had identified concerning DOE's proposal for determining first hour rating by test would be encountered if DOE were to accept their recommendation that first hour rating be predicted by calculation. All of the water heater manufacturers who submitted comments supported this recommendation and offered first hour rating calculation formulas. The industry trade association did the same. All of the proposed formulas followed the same approach toward calculating first hour rating. However, there were some detail differences which would cause slight differences in the calculated values.

All but one water heater manufacturer offered data in support of their suggested first hour rating calculation formulas. The data submitted compared the results of determining first hour rating by test with the results of using the commenter's suggested calculation formula. The results showed general agreement between the results determined by calculation and those determined by test. In most cases the calculated value differed from the test value by less than three percent.

Several of the water heater manufacturers and the trade association acknowledged that there may be some designs of water heaters for which their suggested formula would yield overly conservative results, i.e., up to ten percent below the value that would be determined using the proposed first hour rating test. These would be the designs which do an extraordinary job of limiting mixing of hot and cold water in the tank during a water draw. To avoid

underestimating the first hour rating of a water heater of such innovative design, it was suggested that water heater manufacturers be provided the option of conducting a test to determine the first hour rating of such a water heater.

DOE finds that data submitted by the water heater industry and data generated by the National Bureau of Standards substantiate that first hour rating can be calculated for water heaters of conventional design with a small sacrifice in accuracy over the proposed test method. DOE concurs with comments that a formula for calculating first hour rating may yield overly conservative results for water heaters of innovative design. DOE also finds that the test burden that would be imposed at this time on water heater manufacturers by the proposed rule outweighs the benefits of requiring first hour rating for water heaters to be determined exclusively by test when first hour rating can be calculated with only a slight sacrifice in accuracy in most cases. Further, DOE agrees that the alternative of FTC granting relief to water heater manufacturers by delaying the issuance of the final labeling rule for water heaters to allow sufficient time for testing water heaters to determine first hour rating could be accompanied by some confusion among consumers. In addition, the slight gain in the accuracy of the measure disclosed on the label that is determined by test rather than by calculation does not outweigh the adverse impact of denying useful information to consumers making water heater purchasing decisions for a period of time equal to any delay.

Based on these findings, DOE has modified the requirement of its proposed rule to allow first hour rating to be calculated or determined by test, at the manufacturer's option for the period of time beginning on the effective date of today's rule and ending on November 30, 1979. Beginning December 1, 1979, manufacturers will be required to determine first hour rating exclusively by test. The formula for calculating first hour rating prescribed by today's rule was developed with the intent that it would yield results which would be equal to or slightly less than the results which would be obtained by testing.

The primary intent of these provisions is to enable manufacturers to supply FTC with first hour ratings for all existing models of water heaters, either by testing or by calculation, within a 60 day period following September 20, 1979, the latest date that FTC currently projects for the issuance of its final labeling rule. However, by prescribing a formula for calculating first hour rating which yields a result which tends to be slightly lower than that which can be obtained by testing, DOE has provided an incentive for manufacturers to perform the first hour rating test if they have access to test facilities and if, in their own judgment, the benefit of a slightly higher first hour rating justifies the cost of testing.

It is also the intent of these provisions to insure that first hour rating for all new basic models of water heaters shall be determined exclusively by test since DOE does not find that the prescribed test is burdensome when it is conducted as part of a complete test of a water heater in accordance with the test procedures for water heaters.

Should it become clear at some time that the date by which FTC will require manufacturers to submit energy consumption and cost of operation figures, including first hour ratings, for water heaters will be later than November 30, 1979, DOE will consider extending this termination date of its option for allowing first hour rating to be calculated or determined by test.

3. *Determining First Hour Rating by Testing.*

a. *Full versus partial testing.* For determining the first hour rating of a water heater by testing, one commenter remarked that the proposed test method which required only one water draw was far better than the test method previously proposed for determining the conceptually equivalent measure, hot water supply rating, which allowed for more than one water draw. Another commenter remarked exactly the opposite. This dissenting commenter claimed that by providing for only one water draw to be made the proposed test method would discriminate against the best water heaters on the market, i.e., those with both high recovery efficiencies and power input to storage capacity ratios. The commenter remarked that such water heaters could recover from the initial water draw, i.e., achieve another thermostat cutout, within the one hour period that is the time base of the first hour rating measure. It was claimed that the test method for determining first hour rating previously proposed would, by allowing for additional water draws over the one hour period of the test, yield a better measure of first hour rating than the lower result that would be obtained with the proposed test method.

DOE has considered the commenter's recommendation that DOE adopt the previously proposed test method for determining hot water supply rating as the test method for determining first hour rating. DOE finds that while the results obtained using the commenter's recommended test method may differ from those obtained using the proposed method, this difference will be small in comparison to the magnitude of the results. Moreover, the proposed test method is a significantly less burdensome test than that recommended by the commenter. DOE rejects the commenter's recommendation on these grounds.

The same commenter who recommended that the previously proposed hot water supply rating test be used to determine first hour rating also offered an alternative to this recommendation. The suggested alternative was to modify the proposed approach for calculating the contribution of recovery rate to the first hour rating measure, i.e., the amount of water that a water heater can heat and make available over the one hour time base of the first hour rating measure. The commenter's position was that the time period for this calculation should be one hour minus the time duration from the start of the water draw to the time that the main burner or heating element begins operating rather than the time period of one hour minus the time duration of the water draw itself. The commenter remarked that the main burner of a gas water heater would ignite within fifty seconds to two minutes after the start of the water draw while the water draw itself will last several minutes longer. It was claimed that this shortcoming of DOE's proposed approach would result in an error of five gallons in the first hour rating of one of the commenter's water heaters. The trade association echoed this commenter's position that for determining first hour rating, the contribution of recovery rate should be calculated over the period of time of one hour minus the time duration of the water draw until the main burner or heating element begins operating.

Concerning the recommendation that, for the proposed test method, the contribution of recovery rate should be calculated over the period of time of one hour minus the time duration of the water draw until the main burner or heating element begins operating, DOE finds that this could lead to "double accounting" of hot water. For some water heaters, notably electric water heaters and gas water heaters with low power input to storage capacity ratios, operation of the heating elements or main burner during the water draw test has little effect on the amount of water withdrawn from the water heater. In other words, nearly the same amount of water could be withdrawn from the water heater during the test even if the

heating elements or main burner was prevented from operating during the water draw. However, for other water heaters, notably oil water heaters and gas water heaters with high power input to storage capacity ratios, the effect of main burner operation has a significant effect on the amount of water that can be withdrawn. Therefore, some of the water heated by the operation of the main burner during the water draw test would be accounted for in the amount of water withdrawn from the water heater during the test. Adoption of the commenter's recommendation would allow full credit in the calculated recovery rate contribution term for all water that could be heated by the main burner over the period of the water draw. Thus, some amount of water could be accounted for twice, once in the water draw test and again in the calculated recovery rate contribution term, resulting in an inflated first hour rating for such water heaters. DOE rejects the commenters recommendation on this basis, but finds that the proposed method for the determination of first hour rating would discriminate against some water heaters by not fully accounting for the amount of water heated by the operation of the heating elements or main burner of a water heater during the water draw test. Therefore, DOE has modified its approach for the determination of first hour rating to insure that all water heaters are treated equally. By today's rule, section 3.7 of the test procedures for water heaters requires that the water draw test be conducted with all electrical power or fuel to the heating elements or main burner interrupted to prevent their operation. Section 3.7 further requires that the elapsed time from the start of the test until the first thermostat acts to operate the heating elements or main burner be recorded. The contribution of recovery rate to the first hour rating measure will be calculated over the period of time of one hour minus this elapsed time. Thus, the calculated recovery rate contribution term will account for all of the water that could be heated by a water heater over the one hour time base of the first hour rating measure while the results of the water draw test will account for only the contribution of a water heater's capability to deliver hot water from storage. Summing these two terms to yield first hour rating will account for all of the hot water that could possibly be delivered by a water heater over a one hour period.

b. *Water draw test temperature drop.* Two comments were made concerning the specification in the proposed water draw test of a 40°F outlet water temperature drop. Both commenters were concerned that the specified temperature drop was excessive and would lead to inflated values of first hour rating for water heaters which, in turn, could lead consumers to purchase water heaters of insufficient capacity to satisfy their needs. One commenter remarked that a 20°F temperature drop specification would be more appropriate for the water draw test in light of recommendations being made to consumers to lower their water heater thermostats to as low as 120°F. It was claimed that consumers who operate their water heaters at these recommended thermostat settings will run out of usable hot water well before incurring a 40°F outlet water temperature drop but in most cases not before incurring a 20°F outlet temperature drop.

The commenters are of the opinion that significantly different first hour rating water draw test results will be obtained if instead of specifying 40°F as the outlet water temperature drop, a smaller temperature drop is specified. DOE does not share this opinion. DOE finds that, for current water heater designs, an outlet water temperature drop specification of 40°F will yield water draw test results only slightly greater than those that would be obtained using a 20°F temperature drop specification. This is because current water heater designs inhibit dilution of the stored hot water with the incoming cold water when subjected to a water draw. Thus, when subjected to the water draw test, these designs of water heaters exhibit a relatively constant outlet water temperature or an outlet water temperature which falls off only very slowly until most of the hot water has been withdrawn at which time there is a rapid drop of more than 40°F.

While DOE does not agree with the commenters' contention, i.e., that the outlet water temperature drop specification of the first hour rating water draw test has a significant effect on the results of the test, DOE does find merit in the recommendation that 20°F be specified as the outlet water temperature drop for this test. Should a water heater manufacturer introduce a new design of water heater which does not inhibit dilution of the stored hot water with the incoming cold water when subjected to a water draw, conducting the water draw test using 20°F as the outlet water temperature drop specification will yield a more representative first hour rating than that which would have been determined had 40°F been used as the outlet water temperature drop specification. By today's rule, section 3.7 of the test procedures for water heaters specifies 20°F as the temperature drop for the first hour rating water draw test.

c. *Impact on water heater utility.* A commenter expressed concern that the proposed first hour rating water draw test would encourage manufacturers to produce water heaters which do not maintain a relatively constant outlet water temperature when subjected to a water draw. The commenter remarked that, through widely recognized industry standards, the water heater industry has encouraged water heater designs that can deliver the major portion of a water heater's storage capacity at a relatively constant outlet water temperature nearly equal to the initial outlet water temperature when subjected to a water draw. The commenter pointed out that the utility of such designs is that consumers can enjoy a relatively constant water temperature for personal applications, e.g., bathing and showering, without having to continually adjust the hot and cold water flow rates to account for fluctuations in the hot water supply temperature. The commenter remarked that DOE's proposed rule would adversely affect this utility. By not accounting for the energy associated with the water withdrawn from the water heater, the commenter pointed out that for a given water heater design more favorable results could be obtained with the proposed test if it were possible to modify the design of the water heater to cause the outlet water temperature to drop off more quickly during the course of the water draw. It was pointed out that, all other things being equal, the amount of water that could be withdrawn from a water heater which is capable of maintaining a relatively constant outlet water temperature will be less than the amount of water that could be withdrawn from a water heater which induces dilution of the stored hot water with the incoming cold water (i.e., in such a fashion that the outlet water temperature would fall gradually through the temperature drop specified for the proposed first hour rating water draw test). A greater total volume of water could be withdrawn from the water heater in the latter case because a significant amount of the incoming cold water would be withdrawn as a result of dilution. In the former case, very little cold water would be withdrawn in addition to the stored hot water withdrawn. Further, the greater the outlet water temperature drop specified, the greater the amount of cold water

that could be withdrawn in the latter case, and the greater the disparity between the results of the first hour rating water draw tests for the two different water heater designs.

Changing the outlet water temperature drop specification for the first hour rating water draw test from 40°F to 20°F lessens the magnitude of the problem identified by the commenter but has not eliminated the source of the problem.

When referencing industry standards which encourage water heater designs which deliver hot water at a relatively constant temperature when subjected to a water draw, DOE assumes that the commenter was referring to, for gas water heaters, section 2.14 of the American National Standard for Gas Water Heaters, Volume I, designated ANSI Z21.10.1a–1978, and, for electric water heaters, section 4.4. of the American National Standard for Household Automatic Electric Storage-Type Water Heaters, designated ANSI C72.1–1972. DOE is not aware of the existence of a widely recognized standard which encourages this type of design for oil water heaters. However, since the first hour rating of a typical oil water heater is primarily a function of its high recovery rate rather than its small storage capacity, the effects of dilution during the first hour rating water draw test, if any, will have little effect on the first hour rating measure. DOE considered the approaches taken by these standards for possible application to the test method for determining first hour rating. DOE found that a test approach similar to the one taken by the ANSI Z21.10.1a–1978 standard for gas water heaters could be developed for the first hour rating water draw test which would neither encourage nor discourage water heater designs which induce dilution of stored hot water with incoming cold water when subjected to a water draw. The approach prescribed today considers the energy content of the water withdrawn from the water heater during the first hour rating water draw test. It adjusts, on an energy basis, the measured volume of water withdrawn to an equivalent, or adjusted, volume of water of equal energy content that would have been withdrawn from the water heater if the discharge water temperature had remained constant at its initial value. For water heater designs which inhibit dilution of the stored hot water with the incoming cold water during the first hour rating water draw test, this new approach will yield results nearly equal to the results that would have been obtained using the proposed test method. However, for water heater designs which permit such dilution, this new approach will yield results significantly lower than the results that the proposed test method would have yielded.

This new approach has been incorporated in the test procedures for water heaters by modifying section 3.7 to require that the outlet water temperature be recorded at 15 second intervals throughout the duration of the first hour rating water draw test and by modifying section 4.8 to multiply the actual volume of water withdrawn from the water heater during the first hour rating water draw test by the mean of the recorded values of outlet water temperature divided by the initial outlet water temperature. This approach accounts for the energy content of the water withdrawn from the water heater. The frequent outlet water temperature readings can be used to trace how the energy content of the water withdrawn from the water heater changes with time. Thus, the product of the mean of the recorded values of outlet water temperature and the actual volume of water withdrawn from the water heater during the test is proportional to the energy content of the water. Dividing this product by some reference temperature, in this case the initial outlet water temperature, yields the equivalent amount of water which, at that reference temperature, would have the same energy content.

These modifications to the proposed test method result in a negligible increase in the test burden associated with the proposed test method.

d. *Rate of hot water withdrawal.* Two commenters recommended using a three gallon per minute withdrawal rate for the water draw test. They contended that a three gallon per minute flow rate is more representative of typical hot water withdrawal rates encountered in the home. The point was made that industry standards specify a three gallon per minute flow rate for testing water heaters. To DOE's explanation that a five gallon per minute flow rate had been specified in the proposed test method in order to reveal whether or not the design of the water heater fostered dilution of the discharge water, one commenter remarked that DOE's proposed test method would, by use of the higher flow rate, exaggerate the effects of dilution.

DOE finds that it is not unusual for hot water to be withdrawn from a household water heater at rate on the order of five gallons per minute or more. Such a flow rate is typical of the hot water fill demands of clothes washers and dishwashers.

First hour rating is intended as a measure to be used to properly size a water heater to a particular application. The procedure for sizing the water heater involves making an estimate of a reasonable "worst case" hot water demand that would occur over a one hour period and selecting a water heater with a first hour rating of nearly equal magnitude.

DOE finds that the five gallon per minute (plus or minus 0.25 gallons per minute) flow rate specification that was proposed for the first hour rating water draw test is appropriate for the purposes of using first hour rating to properly size a water heater to a particular application. Therefore, no change has been made to this specification in today's final rule.

e. *Timing the water draw test.* A water heater manufacturer proposed that DOE allow the duration of the first hour rating water draw test to be calculated by dividing the volume of water withdrawn from the water heater during the water draw test by the product of the nominal water withdrawal rate of five gallons per minute and the conversion factor, sixty minutes per hour. The point was made that adoption of this suggestion would eliminate the requirement for timing the duration of the water draw test.

Changes to the test procedures made in response to comments discussed previously under "Impact on water heater utility" require the use of a clock during the first hour rating water draw test. DOE finds that nothing would be gained by adopting the commenter's suggestion. It has not been adopted.

f. *Using the results of the water draw test for more than one basic model.* One commenter remarked that there are various models of gas and oil water heaters which utilize essentially the same tank and water inlet (dip tube) design but differ in power input rating. The commenter recommended that, in cases such as this, the manufacturer should be allowed to conduct the water draw test on one model of water heater and then calculate the first hour rating for the other gas and oil water heaters which are of the same tank and water inlet design but have different power inputs. It was argued that DOE permits a similar scheme for determining the first hour rating of electric water heaters with immersed heating elements.

Because the water draw test was modified in response to comments previously discussed under "Full versus partial testing", the requirement to separately test basic models of water heaters which differ only by the power input has been eliminated.

g. *Recovery rate calculation.* One commenter recommended that water heater manufacturers be permitted to use the nominal or design power input rating for the heating elements or main burner of a water heater for calculating its recovery rate in all cases, not just in the case of electric water heaters as proposed by DOE. The point was made that this would present the power input in nominal terms which the consumer has recognized through the years. By nominal or design power input rating, DOE assumes that the commenter intended for the rating which appears on the manufacturer's nameplate to be used. These ratings usually appear in rounded terms, e.g., 30,000 Btu per hour for a gas water heater.

DOE allows water heater manufacturers to use the design power ratings for the immersed heating elements they install in electric water heaters for calculating the recovery rate of an electric water heater because DOE has found that it would be unnecessarily burdensome to require testing of all models of electric water heaters to determine actual power input. However, since measurement of actual power input for gas and oil water heaters is already required by the test procedures for water heaters, DOE does not find that use of the measured value in the recovery rate calculation presents a problem. Finally, since recovery rate is also a function of the recovery efficiency of a water heater, and recovery efficiency is a measure determined by test and affected by the power input of the water heater tested, DOE finds that it is more accurate to use the actual power input and recovery efficiency of a water heater as determined by testing for calculating the recovery rate of the water heater. Therefore, DOE has not adopted the commenter's recommendation.

4. *Predicting first hour rating by calculation.* Five different formulas for predicting first hour rating by calculation were suggested by as many commenters. All of the proposed formulas shared the approach of summing two terms, the first term being some large percentage of the tank capacity and the second term being the product of the recovery rate of the water heater and some period of time. The first term was intended to predict the amount of hot water that could be withdrawn from storage on demand. The second term was intended to predict the amount of water that could be heated and made available by the water heater over the one hour period that is the time base of first hour rating.

DOE's proposed rule for the determination of first hour rating shared this approach but required that a water heater be tested to determine the amount of hot water that can actually be withdrawn from storage. The amount of water that can be heated and made available by a water heater, the second term of DOE's first hour rating quantity, was to be determined by taking the product of the recovery rate of the water heater and a period of time equal to one hour less the elapsed time of the water draw test.

For determining the first term of the first hour rating quantity, two of the suggested formulas multiply a water heater's actual storage capacity, determined in accordance with DOE's test procedures, by 0.90. The rationale offered for this recommendation was that a quantity of water equal to about 90 percent of the actual storage capacity of a water heater would closely approximate that amount which would be withdrawn from the water heater following DOE's proposed water draw test.

A third formula would determine the first term by multiplying a water heater's rated storage capacity by 0.95 and then multiplying the result by 0.90. By use of the term "rated storage capacity" DOE assumes that the commenter is referring to storage capacity as rated in accordance with section 2.26 of the American National Standard for Gas Water Heaters, Volume I, designated ANSI Z21.10.1–1975, or section 3.8 of the American National Standard for Household Automatic Electric Storage-Type Water Heaters, designated ANSI C72.1–1972.

DOE is not aware of the existence of a widely recognized standard specification for rating the storage capacity for an oil water heater; however, since the specifications for rating the storage capacities of gas and electric water heaters referenced above are identical, DOE has evaluated the suggested formula as if the rated storage capacity for an oil water heater were specified in an equivalent fashion. The referenced standards specify that the actual storage capacity of a water heater must be within plus or minus five percent of the rated storage capacity. By multiplying the rated storage capacity of a water heater by 0.95, as is done in the suggested formula, the minimum allowable actual storage capacity for a water heater of a given rated storage capacity would be used to calculate the first term of the first hour rating quantity. This "adjusted" rated storage capacity term would then be multiplied by 0.90 to account for amount of water which would be withdrawn from the water heater following DOE's proposed water draw test.

The fourth proposed formula would determine the first term of the first hour rating quantity in the same fashion as the third formula would for gas and oil water heaters but would use the value 0.90 in place of 0.95 for determining the adjusted rated storage capacity of an electric water heater. In this case, DOE assumes that the commenter intended to refer to storage capacity as rated in accordance with the method specified in section 25.1 of the American National Standard for Household Electric Storage-Tank Water Heaters, designated ANSI/UL 174–1977. This standard requires the actual storage capacity of an electric water heater to be not less than 90 percent of the rated storage capacity.

A fifth proposal for predicting the first term of the first hour rating quantity would require water heater manufacturers to calculate the minimum amount of water that could theoretically be withdrawn from a water heater to satisfy the water draw requirement of section 2.14 of the ANSI Z21.10.1–1975 standard for gas water heaters and section 4.4 of the ANSI C72.1–1972 standard for electric water heaters. In the case of gas water heaters, this minimum amount of water would be determined by multiplying the actual storage capacity of the water heater by 0.60. In the case of electric water heaters, this minimum amount of water would be determined by multiplying the actual storage capacity of the water heater by 0.80 for water heaters having an overall tank height greater than 36 inches, or by 0.70 for water heaters having an overall tank height less than or equal to 36 inches. No recommendation was made concerning how to calculate the first term of the first hour rating measure for oil water heaters.

In the case of the suggestion that water heater manufacturers use the hot water delivery requirements specified in industry standards to calculate the amount of water to use in place of the results of the water draw test for determining first hour rating, DOE finds that gross underestimates may result. DOE rejects this calculation method because it would yield unreasonably low results for some water heater designs based on the data considered under this rulemaking.

Concerning the suggested calculation methods which would use the adjusted rated storage capacity of a water heater instead of its actual storage capacity, DOE finds no merit in using the adjusted rated storage capacity of a water heater

in a calculation for which the actual rated storage capacity of the water heater has already been determined by test. Further, adoption of this suggested calculation method would penalize water heater manufacturers who rate the storage capacity of their water heaters conservatively. DOE rejects the suggestion that the adjusted rated storage capacity of a water heater be used to calculate first hour rating for these reasons.

Common to all but one calculation method was the contention that the result of the first hour rating water draw test for a water heater would be nearly equal to ninety percent of the actual storage capacity or the adjusted rated storage capacity of the water heater. (The exception was the suggested calculation method, discussed above, that would use the hot water delivery requirements specified in industry standards.) DOE finds that the data submitted by the water heater industry and that generated by NBS substantiates the commenters' contention. For most water heaters the test data and the results of the suggested calculation method agree within plus or minus three percent. However, this data also reveals that this suggested calculation method may overestimate the results of the first hour rating water draw test for some water heaters by as much as six percent.

In keeping with DOE's position that the formula for predicting first hour rating to be included in the test procedures for water heaters should yield results which agree closely with the results that would be obtained through testing but which are unlikely to exceed such test results, DOE has adjusted the commenters' suggested formula for calculating the results of the first hour rating water draw test to yield results six percent lower. This was accomplished by revising the formula from 0.90 times the actual (or adjusted rated) storage capacity of a water heater in gallons, to 0.85 times the actual storage capacity of a water heater in gallons.

The comments which pertained to the proposed method for calculating the amount of water that could be heated and made available by a water heater over the one hour period that is the time base of the first hour rating measure, the second of the two terms of each suggested formula for predicting first hour rating by calculation, were addressed in the preceding section. The determinations made in response to these comments apply here as well.

As mentioned previously, DOE has followed the approach of the proposed test method for determining first hour rating for the purposes of developing a formula for calculating first hour rating. According to the proposed test method, the time duration for calculating the contribution of recovery rate to the first hour rating measure is one hour minus the time duration of the water draw. For the purposes of the formula for calculating first hour rating, this time period can be determined by dividing the predicted quantity of water withdrawn from the water heater during the water draw, i.e., 0.85 times the storage capacity of the water heater in gallons, by the product of the nominal water withdrawal rate of five gallons per minute and the conversion factor, sixty minutes per hour. Carrying out the mathematics, this will simplify to 0.0028 times the storage capacity. Therefore, the second term of the formula for predicting first hour rating by calculation becomes the product of the recovery rate of the water heater and the quantity, one minus the product of 0.0028 and the storage capacity of the water heater.

Section 4.8 of the test procedures for water heaters, prescribed today, presents the complete formula for calculating first hour rating.

5. *Miscellaneous.* After careful consideration of all of the comments, DOE has made some editorial and minor technical changes that were not discussed above and incorporated them in the final rule prescribed today.

C. *Regulatory Analysis Review.*

The proposed rule has been reviewed in accordance with Executive Order 12044 and DOE Order 2030. From the regulatory analysis performed, it was determined that the proposal was significant in nature but did not have major impacts to manufacturers and consumers (imposing annual economic costs of $100 million or more).

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 95–619; Department of Energy Organization Act, Pub. L. 95–91.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations is amended as set forth below, effective October 9, 1979.

Issued in Washington, D.C., August 30, 1979.

Maxine Savitz,

Deputy Assistant Secretary, Conservation and Solar Applications.

1. Appendix E to Subpart B of Part 430 is amended by adding a new section 3.7 to read as follows:

3.7 *First hour rating water draw test.* Establish normal water heater operation with the maximum mean tank temperature within the range specified in section 2.6 and with all air eliminated from the tank. Begin the first hour rating water draw test immediately after a cutout by recording the hot water outlet water temperature, recording the time, and withdrawing water from the water heater through the hot water outlet at a rate of 5.0±0.25 gallons per minute. Interrupt electrical power to the heating elements or fuel to the main burner of the water heater to prevent their operation during this test. Collect all of the water withdrawn from the water heater during the test in a suitable container for the purpose of determining its weight at the conclusion of the test. Alternatively, a water flow meter may be used to measure the volume of water withdrawn from the water heater directly. Beginning 15 seconds after the start of the test and at every subsequent 15 second interval throughout the duration of the water draw, record the outlet water temperature. For the purposes of this test, the maximum recorded temperature shall be referred to as the initial outlet water temperature, T_o. Monitor the functioning of the water heater thermostats and record the time that a thermostat on the water heater acts to operate a heating element or the main burner. Continue the withdrawal of water until the outlet water temperature drops to a value 20°F below the initial water temperature, at which time terminate the withdrawal. Determine the weight of the water withdrawn, W, in pounds measured with an error no greater than 2 percent, or the volume of water withdrawn, G, in gallons measured with an error no greater than 2 percent. Determine the arithmetic mean of the outlet water temperature readings recorded, T_m, in °F. Determine the elapsed time of the test prior to a thermostat on the water heater acting to operate a heating element or the main burner, t_e, in hours measured with an error no greater than 2 percent. If a thermostat on the water heater does not act to operate a heating element or the main burner within one hour after the start of the test, the test is to be terminated and t_e expressed as one hour.

2. Appendix E to Subpart B of Part 430 is amended by adding a new section 4.7 to read as follows:

4.7 *Recovery rate.*

4.7.1 *Recovery rate for gas and oil water heaters.* For a gas or oil water heater, calculate the recovery rate, R, expressed in gallons per hour and defined as:

$$R = \frac{P \times E_r}{k \times \Delta T_5}$$

where—

k is as defined in section 4.1.1.

ΔT_5 is as defined in section 4.3.

E_r is as calculated in section 4.1.1.

P = power input to the burner, determined in accordance with section 3.2.1, expressed in Btu per hour.

4.7.2 *Recovery rate for electric water heaters.* For an electric water heater,

calculate the recovery rate, R, expressed in gallons per hour and defined as:

$$R = \frac{P^* \times E_r \times 3{,}412\ \text{Btu/kWh}}{k \times \Delta T_5}$$

where—

k is as defined in section 4.1.1.

ΔT_5 is as defined in section 4.3.

E_r is as calculated in section 4.1.2 for electric water heaters with other than immersed heating elements, or section 4.1.3 for electric water heaters with immersed heating elements.

P^* = P, power input to the heating elements, expressed in kilowatts, determined in accordance with section 3.2.1 for electric water heaters with other than immersed heating elements or section 3.2.2 for electric water heaters with immersed heating elements, with the following exception: For electric water heaters with dual immersed heating elements which, in characteristic operation of the water heater, are not energized simultaneously at any time, P^* shall be taken as the design power rating of the heating element in closest proximity to the hot water outlet of the water heater, expressed in kilowatts.

3. Appendix E to Subpart B of Part 430 is amended by adding a new section 4.8 to read as follows:

4.8 *First hour rating.*

4.8.1 *Method for determining first hour rating.* Except as provided in section 4.8.2, first hour rating shall be determined in accordance with section 4.8.3.

4.8.2 *Options for determining first hour rating.* Until December 1, 1979, first hour rating may be determined in accordance with either section 4.8.3 or section 4.8.4.

4.8.3 *First hour rating determined by testing.* Calculate the first hour rating, F, expressed in gallons and defined as:

$$F = \left(\frac{W}{d} \times \frac{T_m}{T_o}\right) + \left[R \times (1 - t_c)\right], \text{ or}$$

$$F = \left(G \times \frac{T_m}{T_o}\right) + \left[R \times (1 - t_c)\right]$$

where—

R is as calculated in section 4.7.1 for gas and oil water heaters, or section 4.7.2 for electric water heaters.

W = weight of the water withdrawn from the water heater during the first hour rating water draw test, determined in accordance with section 3.7, expressed in pounds.

d = 8.25 pounds per gallon, the nominal density of water.

G = volume of water withdrawn from the water heater during the first hour rating water draw test, determined in accordance with section 3.7, expressed gallons.

T_m = arithmetic mean of the outlet water temperature readings recorded during the first hour rating water draw test, determined in accordance with section 3.7, expressed in °F.

T_o = initial outlet water temperature recorded during the first hour rating water draw test, determined in accordance with section 3.7, expressed in °F.

t_c = elapsed time of the first hour rating water draw test prior to a thermostat on the water heater acting to operate a heating element or the main burner, determined in accordance with section 3.7, expressed in hours.

4.8.4 *First hour rating determined by calculation.* Calculate the first hour rating, F, expressed in gallons and defined as:

$$F = (0.85 \times V) + \left\{R \times \left[1\ \text{hour} - \left(0.0028 \frac{\text{hour}}{\text{gallon}} \times V\right)\right]\right\}$$

where—

V is as defined in section 4.1.1.

R is as calculated in section 4.7.1 for gas and oil water heaters, or section 4.7.2 for electric water heaters.

0.85 = the constant multiplier for calculating the results of the first hour rating water draw test.

0.0028 hour/gallon = the constant multiplier for calculating the duration of the water draw during the first hour rating water draw test, determined by dividing 0.85, as defined in this section, by the product of the hot water withdrawal rate during the first hour rating water draw test, five gallons per minute, and the conversion factor, 60 minutes per hour.

[FR Doc. 79-27906 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

federal register

Friday
September 7, 1979

Part VI

Department of Energy

Office of Conservation and Solar Applications

Federal Price Support Program For Municipal Waste Reprocessing Demonstration Facilities

DEPARTMENT OF ENERGY

Office of Conservation and Solar Applications

[10 CFR Part 486]

[Docket No. CAS-RM-79-111]

Federal Price Support Program for Municipal Waste Reprocessing Demonstration Facilities

AGENCY: Department of Energy.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of Energy intends, by rulemaking, to promulgate regulations establishing policies and procedures necessary to implement a Federal price support program for revenue producing products of municipal waste reprocessing demonstration facilities. Price supports are one of several forms of Federal finanical assistance authorized by Section 20 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, in connection with the establishment of municipal waste reprocessing demonstration facilities producing synthetic fuel and recovering energy intensive products. This advance notice of proposed rulemaking is published to advise the public of tentative DOE thinking regarding the price support program and to invite public comment and participation in the development of proposed rules which DOE anticipates will be published in the **Federal Register** in December 1979.

DATES: Comments must be received on or before November 6, 1979, 4:30 p.m.

ADDRESSES: Written comments should be addressed to Joanne Bakos, Office of Conservation and Solar Applications, U.S. Department of Energy, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Donald K. Walter, Acting Branch Chief, Urban Waste and Municipal Systems Branch, Office of Conservation and Solar Applications, Room 2252C, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585 (202) 376-1965.

SUPPLEMENTARY INFORMATION:

I. Background

Section 401 of Title IV of the Department of Energy Act of 1978—Civilian Applications (Public Law 95-238), enacted on February 25, 1978, amended the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577) ("the Act"), by adding Section 20 which authorizes the development of a financial support program for the establishment of municipal waste reprocessing demonstration facilities. The Secretary of Energy is authorized in Section 20(b)(1) to provide Federal financial assistance to selected municipalities which will own or operate demonstration waste reprocessing facilities which produce fuel and recover energy intensive products from organic municipal waste in an environmentally acceptable manner. Federal financial assistance will be provided to the municipality by grants, contracts, price supports, cooperative agreements, or any combinations thereof. The regulations herein proposed to be developed are specific for price support of revenue producing products of municipal waste reprocessing demonstration facilities.

Municipalities receiving Federal financial assistance in the form of price supports will be required to report pertinent information concerning the waste reprocessing demonstration facility in accordance with guidelines currently being developed by DOE. A Notice of Inquiry inviting public participation in the development of proposed guidelines for monitoring and reporting on projects was published in the **Federal Register** on April 25, 1979 (44 FR 24298).

An Interagency Agreement dated May 7, 1976, and augmented by a Memorandum of Understanding (MOU) dated May 31, 1979, exists between DOE and the Environmental Protection Agency (EPA) with respect to coordination of efforts by the agencies in regard to the demonstration of reprocessing facilities involving energy recovery. The price support program will be implemented in accordance with the MOU, which provides that the EPA has lead responsibility for feasibility study and procurement planning, and that DOE has lead responsibility for design and construction support. In accordance with the Act, for energy projects of mutual interest, planning will be conducted jointly; DOE is responsible for energy related matters concerning the project including energy related economic and institutional aspects, and EPA is responsible for environmental and other economic and institutional aspects and for assurance that the projects are consistent with EPA guidelines and state or regional waste management plans. Further, in view of the Department of Commerce's (DOC) statutory responsibilities for the economic and marketing aspects of resource recovery, as set forth under Subtitle E of the Solid Waste Disposal Act (42 U.S.C. 3251 et. seq. consultation with DOC will be undertaken. DOE will seek EPA concurrence in the latter area and will consult with EPA to assure that the provisions of Section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) are applied.

An environmental assessment (EA) has been prepared for the Urban Wastes Technology Program pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U. S. C. 4321 *et seq.* Notice of Availability of that EA was published in the **Federal Register** on July 18, 1979 (44 FR 42110). The EA treated all aspects of the Urban Wastes Technology Program, including price supports. DOE's review of the EA determined that the Urban Wastes Technology Program would not be a major Federal action significantly affecting the quality of the human environment on a programmatic level. Therefore, no environmental impact statement (EIS) is required to support this action. However, review of the environmental aspects of site specific actions within the program will be conducted and determinations will be made regarding the need for site specific EA's or EIS's.

II. Proposed Regulations

The regulations to be developed by DOE will establish policy and set forth procedures whereby municipalities may submit applications for price support of end products of municipal waste reprocessing demonstration facilities. Such facilities may be established by a public or private entity under such terms and conditions as may be specified by the municipality which will receive price support payments.

The objectives of the program are to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of synthetic fuel and energy intensive products, and to gather information about the technological economic, environmental, and social costs, benefits and impacts of such demonstration facilities.

The Federal assistance will enable municipalities to prove the commercial and economic viability and environmental acceptability of recovery systems which recover the maximum amount of usable net energy from municpal waste. These wastes would otherwise be discarded and their available energy not realized. Concurrent with the production of fuel, the reprocessing facility might recover "energy intensive products" which, if

produced from virgin material, would require a greater amount of energy to be expended, as well as other revenue producing byproducts. A successful demonstration program is likely to encourage municipalities and private entities to accelerate the commercialization of recovery technologies which conserve resources and reduce dependence upon fossil fuel and other non-renewable energy resources. Successful demonstration is further perceived as a method of encouraging the financial community to invest or make available to private and public entities sufficient capital to construct and operate reprocessing facilities without Federal assistance.

DOE believes the program, as developed with public assistance, should reflect the following policies:

1. Demonstration facilities selected for price support should utilize technologies which have potential for wide energy application. The type and capacities of selected projects should be determined in part by the stage of the particular technology's development, by actual or expected economies or diseconomies of scale, and by the total amount of funding available to DOE.

2. Price supports are intented to provide temporary subsidies to the economics of a project and should not be planned as a permanent subsidy to the project. Economic analysis should show that the subsidy is not required on a permanent basis under reasonable assumptions.

3. Responsibility for sound management and organization of supported projects should rest with municipalities and their participants. The Federal role should be a monitoring responsibility.

Section 20 authorizes the Secretary to promulgate regulations establishing price supports for revenue producing products of municipal waste reprocessing demonstration facilities. DOE expects to provide price support limited to synthetic fuel and/or energy intensive products, such as ferrous metals and aluminum, produced or recovered by demonstration facilities. "Municipal waste" is defined by the Act as including, but not necessarily limited to "municipal solid waste, sewage sludge, and other municipal organic waste." Section 20 defines the term "municipal," prescribing eligibility for receipt of Federal assistance, to include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

The Act expressly limits price support assistance to municipalities which either own or operate demonstration facilities, or both. The total Federal assistance available for any one facility under Section 20, whether by grant, contract, cooperative agreement, price support or any combinations thereof, may not exceed seventy-five percent (75%) of the cost of the facility. Additionally, not more than forty million dollars ($40,000,000) of Federal financial assistance may be used for the construction of any one facility. DOE solicits public comment and suggestion on the elements comprising the "cost" of facilities established under this program for the purpose of determining the seventy-five percent (75%) limitation.

DOE considered several options for the application of proposed price supports. These included, among others, support based upon the quantity of product, the quality of product, the unit price received for product, and full or partial purchase of product by the Federal Government. DOE is leaning toward proposal of a price guarantee, because, of all these possibilities, that option alone would provide incentive to all project participants, and promote the development of normal project/market relationships. The price guarantee could be based upon the price received for products which are sold. This mechanism would not guarantee the quantity or quality of products from the project, and, thus, leaves the risk of interruptions in waste supply and project operations with the municipality or operator. It would insulate the project from low prices due to slackening of market demand, or from buyer demands for discounts which might, for example, be predicated upon unexpected difficulty in the use of the project product, or from low energy costs in the locality.

Issues concerning the price support applications include:

—The extent of Federal involvement, if any, in the negotiation of prices by buyers other than the Federal Government to assure the prices received are fair in comparison to prices received for like products.

—With respect to a guarantee of a minimum sales price, the method of computation of the price upon which payments will be based as well as the frequency of payments and required documentation as proof of sale and possibly proof of use of the recovered product.

Federal financial support is intended to diminish what municipalities, industry and the financial community may perceive as a major risk associated with the establishment of reprocessing facilities, the uncertainty of consistent and sufficient revenue streams both from the tipping fee paid for disposing of waste at the facility and from the marketing of products generated from the waste. The support is further expected to assist in maintaining financial stability during the first three to five years of operation after which experience indicates that the facility may reasonably be expected to begin to generate a positive cash flow. For that reason, DOE expects that the proposed regulations may limit pirce support assistance to a maximum of five years. DOE thinks that, in the five year period, disposing of municipal waste at a reprocessing facility should become a more economical disposal method than alternatives.

In consonance with the DOE policy to encourage, rather than to pay for, the establishment of facilities, DOE is further considering the promulgation of regulations that would require municipalities establishing successful projects to return to DOE Federal support assistance from project revenues generated during the period of positive cash flow. Inherent in this policy is the assumption that a facility would generate profits sufficient to provide a reasonable rate of return on investment while at the same time enabling the municipality to return assistance monies.

A number of options are available for the acquisition of proposals, ranging from a highly detailed request for proposal aimed at a specific technology, to unsolicited proposals. A specific method for acquisition has not been selected, and public comment is specifically sought in this area. A relatively flexible system that will achieve maximum competition while at the same time encourage a broad range of existing and innovative technologies is preferred.

The regulations to be developed will identify the desirable types and capacities of facilities to be supported. Subsection 7(c)(1) of the Act envisions Federal support for the establishment of full-scale, commercial size facilities or other operations. The types and capacities of selected projects will be determined in part by the stage of development of the particular technology, actual or expected economies or diseconomies of scale, and the total amount of funding available to DOE.

Competitive evaluation of proposals will likely be based, among other considerations, on the following selection criteria: the probability of technical and economic success; net energy effectiveness; proposed institutional arrangement; potential environmental, and health and safety impacts; the proportion of risk sharing; and the extent to which the proposed

facility can be adapted by municipalities located in similar environmental surroundings. The public is invited to suggest other considerations, and to identify which of the above suggested criteria should receive emphasis during the evaluation process.

After consideration of the comments and other relevant information, a Notice of Proposed Rulemaking will be issued.

III. Comment Procedures

Interested parties are invited to submit written comments to the U.S. Department of Energy, ATTN: Joanne Bakos (See ADDRESSES). Comments should be identified on the document and envelopes submitted to DOE by November 6, 1979, in order to ensure consideration.

All information or data considered to be confidential by the sender must be clearly marked *"Confidential Treatment Requested"* and accompanied by a statement in support of the request for confidentiality. Only one copy of such data should be provided. In accordance with agency regulations, DOE reserves the right to determine the confidential status of information or data and to treat it according to its determination.

(Section 20 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, 42 U.S.C. 5920 (1978); Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.* (1977).)

Issued in Washington, D.C., August 29, 1979.

Omi G. Walden,

Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-27895 Filed 9-6-79; 8:45 am]

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federal register

Friday
September 7, 1979

Part VII

Civil Aeronautics Board

Essential Air Transportation and Service; and Delegation of Authority to the Director, Bureau of Consumer Affairs

CIVIL AERONAUTICS BOARD

14 CFR Part 398

[Regulation PS-87; Enactment of Part; Docket 34650]

Guidelines for Individual Determinations of Essential Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 31, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB adopts guidelines for determining the essential air service of small communities under its Small Community Air Service Program. Under this program, the CAB is directed to determine what is essential air transportation for eligible points and to guarantee that this level of service is provided, with Federal subsidy where needed.

DATES: Effective: September 7, 1979. Adopted: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5408.

SUPPLEMENTARY INFORMATION: On May 3, 1979, we issued PSDR-59 (44 FR 27438, May 10, 1979), in which we proposed to establish a new Part 398 *Guidelines for Individual Determinations of Essential Air Transportation.* We indicated that these guidelines, once adopted, would be used as a framework for our analysis of the essential air transportation needs of individual communities under the new section 419 program, "Small Community Air Service." As we explained in PSDR-59, section 419 requires us to make essential air service determinations within a prescribed period for each eligible point that is served by one or more certificated air carriers. By October 24, 1979, we must determine the essential air transportation level for approximately 555 eligible points. We requested that comments on the proposed guidelines be filed by June 25, 1979.

We have received numerous comments on our proposed guidelines from communities, States, certificated carriers, commuter airlines, associations, regional commissions, government agencies, and private parties.[1] These comments addressed virtually every aspect of our proposal, offering a wide variety of opinions and raising some issues that were not addressed in our original proposal.

To address all of the issues on which there were comments in an orderly manner, we will discuss them by category. We will first consider the issues related to the general overview of the section 419 program. Next, we will examine the specific guideline areas for points outside Alaska as we proposed in PSDR-59—hubs, airports, equipment, frequency of flights, capacity, time of flights, and number of stops—and then the guidelines for Alaska points. Finally, we will address the other issues such as cargo and hyphenated points discussed in the supplementary information of PSDR-59 and the new issues raised by the commenters.

One of the fundamental questions posed by several commenters is, "What is the definition of essential air transportation?" Essential air transportation is defined in section 419(f) of the Act as scheduled air transportation of persons to a point provided under such criteria as the Board determines satisfies the needs of the community concerned for air transportation to one or more communities of interest and insures access to the Nation's air transportation system, at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial.

Given this definition, several commenters argued that the Board should not be establishing "guidelines" as a form of policy statement but should be establishing "criteria" against which individual community data and circumstances could be examined and determinations of essential air service could be made. We believe this is primarily a semantic argument. In our discussion in PSDR-59 and our reexamination of our proposed guidelines in this document we indicate the factors to be considered and evaluated to determine the essential air transportation level, in terms of hubs that will be designated, the level and frequencies that will be required, and the number of stops that will be permitted. If, on the other hand, the dispute is not primarily semantic and these commenters believe that "criteria" or "guidelines" should be more specific, spelling out more precisely the level of service we will require under all different circumstances and how we will assess and weigh the various factors for each community, we do not agree. This approach would not lend itself to a careful examination of the individual needs and the unique circumstances of a community. For practical purposes, criteria that are too specific would come close to being the "national standards" that so many communities indicated we should not adopt.

Several commenters indicated that our general guidelines appear to be national standards and argued that we should not adopt such standards because each community has its own needs and these needs will not be considered with en masse determinations. Other parties indicated, however, that our proposed guidelines are generally reasonable and address the important factors that should be considered in essential air service determinations, and supported our approach as long as the guidelines are not inflexible standards. In practice, we intend to use our guidelines as a framework for individual determinations, not as an ironclad formula. We assure each community that its air service needs will be individually analyzed and considered when we make our determination, and when circumstances indicate that divergence from the guidelines is required, we intend to be flexible. As an indication of this flexibility, we would cite several recent interim determinations. For Presque Isle, Maine, our determination guarantees 80 seats each way and requires service with medium size CV-600 or FH-227 aircraft to Boston, overflying two closer hubs (Order 79-7-198, July 30, 1979). At North Bend/Coos Bay, Oregon, we required service to two hubs including direct service to Portland, although the Portland service could have been provided via connecting services at a closer hub, Eugene (Order 79-6-215, June 29, 1979). At Jamestown, North Dakota, we specified service to Minneapolis/St. Paul, overflying Fargo, a closer hub, because of the better connecting service available (Order 79-2-45, February 7, 1979). Although determinations for several communities may be adopted in the same order (we are considering issuing orders by States), each point will be analyzed and addressed separately.

One of the most important general issues discussed in the comments was the extent to which there should be government intervention in the national air transportation system under the section 419 program. It was noted that

[1] Although PSDR-59, which addresses the policy aspects of essential air service determinations, was issued in Docket 34650, some parties filed their views on PSDR-59 in Docket 35464, which concerns the proposed procedural rules, PDR-66, for making essential air service determinations. We have therefore considered all comments about our proposed guidelines filed in both Dockets 34650 and 35464. A list of those filing comments is provided in Appendix A.

Congress intended that convenient and comprehensive air service should be maintained at all eligible points and that the government should intervene to ensure this service when necessary. We agree with this position, and we will act to carry out these directives. But we must keep in mind the general principles underlying the entire Airline Deregulation Act. Congress clearly intended that wherever possible the air transportation system should rely on market forces rather than government regulation. The section 419 program addresses a major area of the air transportation system where Congress recognized a need for government involvement, at points that cannot rely on the marketplace to meet their needs, and directed the Board to ensure essential air transportation at these communities.

Several commenters indicated that the Board should guarantee each community its existing level and patterns of service, including service with jet aircraft where it is currently being provided. There is concern that service changes could cause serious economic problems for the communities. Further, many comments point out that although Congress specified a minimum level for essential air service it did not specify a limit on the level that the Board should guarantee. We are sympathetic to these concerns, but it is clear that Congress did not intend the air transportation system to be frozen in its current form. The main policy determination underlying the Airline Deregulation Act is that the public will benefit from allowing carriers to alter their operations in response to market demand. Section 419 was included as an exception to the rule in recognition that reliance on market forces may not always be practicable for smaller communities and to ensure that such communities retain essential air service. In line with this, essential air service does not mean all the air service a community wants. Instead, essential air service is the level of service that the government should guarantee to ensure a community that it will have access to its communities of interest and to the national air system. Secondly, as the statutory designation "Small Community Air Service" suggests, the intent of Congress in establishing this program was to ensure service at the small points that potentially may not be able to support service economically in a totally deregulated environment. Finally, regarding the absence of a statutory ceiling, we note that Congress was silent on this issue, apparently leaving this aspect to our judgment. Section 419 provides for the Board to develop a program for subsidized essential air service. A maximum capacity to be subsidized is an expectable element of such a program. To guarantee service above a certain level would undermine the overall intent of the Airline Deregulation Act by limiting the flexibility of the airline network to respond to consumer needs and, more importantly, would not result in responsive service by willing carriers. We believe that the marketplace will be able to function where there is demand for service above a threshold self-sufficiency level that meets essential air service needs and that for us to regulate air transportation above this level is unwarranted and potentially harmful.

However, some medium-sized communities such as Asheville, N.C., Lynchburg, Va., and Columbus, Ga. Doubt that their air transportation needs will be accommodated under this approach. Such communities are concerned about transitional problems and the inability of the marketplace to meet their short term needs because of the shortage of equipment and the suddenness of deregulation. They claim that Congress contemplated a gradual and phased transition and believe that a guarantee of only 120 seats will force them to cope with potentially severe service reductions immediately. One suggestion to overcome any transitional problem is to require essential air service at an initially high, but annually reduced, amount to allow aircraft and operators to become available to meet the demand for service.

Regarding the equipment shortage, experience so far indicates that commuter airlines have been able to obtain additional and larger aircraft to serve markets where certificated carriers have chosen to discontinue operations. We note that several of these carriers are purchasing larger aircraft in the 50-seat range to serve the denser, short-haul markets being left by certificated carriers. As more aircraft are produced—and we are encouraged by the high production schedules and the estimated increase in available aircraft over the next year—we expect any problems that might arise because of equipment shortages to decline.

Nevertheless, it is possible that during a transition period the marketplace may not be able to respond immediately to significant reductions of service at some points even though the point enplanes more than 40 passengers each day. We have been extremely concerned about such problems and have examined the possibility of establishing higher initial levels of essential air service when traffic warrants, with a preplanned phasing down of the level of service to a ceiling level based on self-sufficiency, in order to ease the transition. After much consideration, we have decided against such an approach. First, almost half of the nearly 300 points in the lower 48 states requiring a determination enplane 40 or fewer passengers per day and are already completely covered by our guidelines. Approximately 60 of the remaining points enplane more than 100 passengers per day, a level that should be sufficient to allow us to rely on the marketplace and which would require service well above any essential amount that could be guaranteed under any circumstances without interfering with the flexibility of the airline network and incurring disproportionately large economic costs. More indicative of the extent of the potential transitional problem for these larger communities, however, is the number of suspension notices we have received since passage of the Act that involve a major reduction in the available service at points enplaning more than our proposed ceiling of 40 passengers, where there is not substantial alternative capacity already available or where there is no carrier immediately available to commence replacement service. For the notices filed so far involving 133 points, only about five could possibly be regarded in this category.

Moreover, a phased transition would have several undesirable aspects. It would limit the flexibility of the airlines during the transition period and make it more difficult for carriers to respond to consumer needs. To require an incumbent carrier to continue service at one community during this period has the effect of denying that carrier's service to another community. Also, holding unwilling carriers at eligible points may be detrimental to the eligible point itself during its transitional period. A replacement carrier may find it difficult to establish itself at a point that is still being served by a better known, although unwilling, airline. Any overlap of the old and the new carriers' services may therefore be detrimental to the community's long-run interest in developing air service.

Commenters have also raised an issue related to the transition problem of whether a new carrier willing to replace the incumbent carrier's service at a point can be relied upon to provide continuous service at the higher levels required by the marketplace. If it is doubtful that the replacement carrier will provide the essential service, the Board can forbid suspension by the incumbent carrier. However, when the

replacement carrier's reliability is established and it is able to provide the essential air service at the eligible point, it is best to allow the unwilling incumbent carrier to depart and thereby enable the new carrier to develop its operations without having to compete with a carrier desiring to operate elsewhere. As the incumbent carrier leaves, the new carrier can begin increasing its available capacity and moving to larger aircraft if the traffic levels and operating conditions at the point justify it. Therefore, we have decided that the potential benefits of a phased reduction in maximum guaranteed service do not justify our implementing such a plan for all essential air service determinations.

Nonetheless, we are acutely aware that during a transition period there may be individual cases where the marketplace may not be able to respond quickly to the reduction or elimination of significant levels of service by an incumbent carrier even though the point's traffic levels are substantially above the threshold level of self-sufficiency where the marketplace should normally be able to meet the point's needs. We expect that there will be relatively few cases of this type, but we recognize a responsibility to address these transition problems when they do occur. We note that prior to passage of the Airline Deregulation Act certificated carriers were able to reduce service in markets at their discretion as long as they were fulfilling their minimal certificate obligations. Under section 419, we now have a mechanism to consider the impact of such service reductions on the essential air service needs of communities and we are prepared, therefore, to examine these cases on an ad hoc basis, and when necessary, we will take steps to alleviate transitional problems.

More specifically, when an incumbent carrier proposes a substantial reduction or the elimination of service at a point where traffic levels are above our ceiling and a *significant portion* of the point's traffic would be temporarily totally unaccommodated by the alternative service that will be available, we will consider making a finding of a major transitional problem and issuing a transitional essential air service determination. This determination would establish a temporary higher level of essential air transportation than would be established under our guidelines, and we would require that that level of service be provided at the point. On the basis of this determination, we would be authorized to prohibit the incumbent carrier from terminating or reducing service until alternative replacement service is being provided that meets this higher essential air service level. We believe this approach will provide the necessary time to alleviate any short-term transitional problems and will protect the communities from the possibility of sudden and major disruptions in air service. Since the point should ultimately rely on the marketplace to meet its needs, however, and our concern here is to overcome short-term transitional problems, we will only guarantee this higher level of service for a temporary clearly limited period. During this time we will work together with the community, the incumbent carrier and the replacement carriers to effectuate a smooth and coordinated transfer of service. After this period, the point's essential service level will revert to the level determined to be essential under our guidelines, including the sixty-seat maximum level of guaranteed service.

The actual steps we will take and the level of service that we will define for transitional essential air service determinations will depend upon the individual circumstances of the case examined on an ad hoc basis. We may establish a planned, phased transfer of operations from one carrier to the other in designated stages. We are unable to outline in specific detail the types of actions that we may take in each case, since we do not know what cities may have to be addressed or what unique circumstances may be present. Our purpose here is to underscore our commitment to deal with these problems on an individual basis.

In dealing with this problem of transition, we have also considered the issue of how communities and the Board will receive sufficient advanced notification when a carrier plans to reduce service significantly at a point. We already receive notice when a certificated carrier plans to suspend all service at a point or the last nonstop or single-plane service in a market. In most cases, this requirement will provide us with the necessary notice of major eliminations of service. In those cases where the incumbent carrier could reduce service in a market without being required to file a notice, where the carrier would be reducing the number of frequencies in a market without eliminating the last nonstop or single-plane service, we expect that the community will have advance notification of the carrier's plans as a result of schedule changes published in the Official Airline Guide and filed with the Board. We have also advised all certificated carriers by letter that if they are proposing major reductions in service at a point that it is in their best interest and the public interest for them to apprise the community and the Board of their plans as soon as possible. If a community believes a carrier's proposed reduction in service would significantly affect its air service, it may petition us to prohibit the reduction and we will act on that request.

The issue of whether the Board can meet its statutory deadline to make 555 determinations by October 24, 1979, was also addressed. It was suggested that the Board ask Congress for an extension of the date until January 1980 in order to enable the Board to give adequate and proper consideration to this endeavor. We are not in favor of seeking an extension for this task, however. We believe it is very important that these determinations be made as soon as possible to establish a comprehensive essential air service program and to make known to the public and the operating carriers exactly what level of service we will ensure and be willing to subsidize, if necessary. We will make every effort to accomplish our task within the statutory deadline. We would point out, though, that our ability to meet this deadline depends heavily upon communities' providing us with timely responses to the questionnaire we distributed.

Several communities cited the importance of community input, both in determining essential air service and for the selection of a carrier to provide the service. We too recognize the important role of the communities and states in this regard. In developing this program, we have given serious consideration to comments from communities, both as presented at the regional meetings and in written pleadings. We are encouraged by the cooperation we have had and we hope and expect it will continue. Our questionnaire gives communities an opportunity to present factual data and information as well as their views and opinions on the specific essential air service requirements. Also, the appeal procedures that we are adopting simultaneously are designed with major emphasis on ensuring sufficient participation by the communities in our decisionmaking process.

Hubs

Under the proposed guidelines, we indicated that the policy of the Board would be to require service to only one hub as a general rule, but that under certain circumstances where there are commercial, geographic, and political ties in two directions and sufficient traffic to support service patterns to two

hubs we would consider defining essential air transportation to two hubs. We also stated that in no case would we require essential air service to more than two hubs.

Numerous comments were received about the number of hubs to be designated. The overwhelming majority indicated opposition to the general one-hub limit, claiming that the intent in section 419 of the Act is to assure air transportation to meet the eligible point's needs for service to one or more communities of interest. Several commenters noted that service to two hubs is necessary where there are traffic flows in two directions, and with only a single connecting hub travelers would have to backhaul to their final destination. They contend that when there is sufficient traffic to warrant designating two hubs the Board should do so. One party opposed designating two hubs, noting that it would result in splitting the eligible point's traffic between the two hubs and would decrease the viability and the public benefit of the service. The U.S. Department of Transportation (DOT) favored our proposal of designating one hub generally and never more than two. On the issue of designating more than two hubs, a few commenters claimed that there is no statutory justification for limiting the number of hubs and that the Board should designate as many hubs as the point's traffic can support.

A substantial number of comments also addressed the issue of the size of hubs that the Board should designate. Several communities and States noted that only hubs being served by several carriers and having adequate connecting services to several major cities should be designated. They claim that service to small hubs does not generally meet the essential air service needs of communities and that the Board should not designate such hubs unless the Board has made an examination of available service patterns and determined that access to the national air transportation system would be guaranteed.

Finally, the commenters indicated concern about the criteria the Board would use in selecting hubs for essential air service. Many opposed the designation of the nearest hub, indicating that requiring essential air service in short-haul markets will result in inefficient and low-revenue service that is not conducive to developing the level of traffic or economically viable service. Other commenters argued that essential air transportation should be required to historic communities of interest, that the Board should consider designating more distant hubs where substantially better service is available, and that the Board should allow the community to select between hubs where traffic is evenly divided.

In designating a hub or hubs to be served, our objective is to ensure convenient and reasonable access for an eligible point to its major destinations, either with direct service or convenient connecting opportunities, and to the national air transportation system in general. We indicated in our proposed guidelines our belief that this could in most cases be accomplished by designating only one hub. Although we did recognize circumstances where two hubs would be required to meet this objective, the unequivocal language in our proposal indicating an inclination to only one hub apparently led communities and States to be concerned that we will *always* designate only one hub, and that that hub would always be the closest one, regardless of size and convenience. We want to assure the communities and States that this will not be the case. We will designate just one hub for some eligible points, but only if that hub satisfies the community's needs for convenient and adequate access to the national air system. In making this determination on whether a hub affords good access, we will consider such factors as the number of carriers serving the hub, the total level of operations available at the hub in terms of the number of departures and destinations of flights, and the historic traffic patterns. If a more distant or larger hub or a second hub is required to meet the point's essential service requirements, we will not hesitate to make such a designation. In deciding if a second hub is required, we will examine the traffic flows and location of primary destinations of the eligible point's traffic. If a substantial share of the traffic is in a market that cannot be served conveniently by connecting service through the one hub because of substantial backhaul or circuity for example, we will examine alternative hubs to be designated in addition to the primary hub.

We would cite our decisions on interim essential air service determinations at several points as evidence of our approach on the number and designation of hubs. For Jamestown, North Dakota, we required service to two hubs, one to the east and one to the west, because substantial shares of the traffic move in each direction. We also designated Minneapolis/St. Paul for the hub to the east, overflying Fargo because of that point's limited service opportunities and the significantly higher level of service at Minneapolis/St. Paul. Similarly, for Presque Isle, Maine, we required service to Boston based on historic service patterns and traffic flows, overflying Bangor and Portland. We will be examining these issues closely on an individual case basis. We have modified Sec. 398.2 on hubs in an effort to indicate a more flexible approach to designating hubs in line with our discussion here. Finally, we would point out that the hub or hubs that we designate is the destination or destinations that we would guarantee service to if we were required to seek a carrier to provide service at a point. In many cases, we suspect that carriers serving eligible points may choose to provide service to larger or more distant hubs, if traffic levels in the market can support such operations, providing direct flights between the eligible point and its primary destinations. Although we expect that such service would normally be equal to or above our essential air service requirements, we will examine the specific operations to ensure that they meet the essential air service needs of the community.

Specific Airports

In our proposal, we indicated that under certain circumstances we would occasionally specify that air service be provided to a particular airport at the eligible point. We indicated that we would not usually require service to a particular airport at the hub, however.

All of the comments on this point dealt with our hub airport policy. Most communities asserted that to guarantee access to the national transportation system we must designate service to the primary airports at hub cities to afford both connecting opportunities and convenience for travelers to the hub city. It was noted that on short-haul flights to the hub, if air service is provided to a satellite or secondary airport, the viability and utility of the service is diminished because of the competition of surface transportation as an alternative to air travel. One party claimed that even service to a particular portion of an airport, such as the main terminal, should be required in some cases to ensure passengers usable and convenient connecting opportunities. On the other hand, the DOT contends that we should not designate airports at multi-airport hubs.

The Board will look at any claimed need to specify an individual airport on a case-by-case basis. Where such a designation is necessary to ensure adequate access to the transportation system and convenient access to the hub city for local traffic, we will include this requirement in our determination.

We do not expect to make such a determination in most cases, and we will not do so where service to any of the primary airports will provide reasonably convenient local and connecting service. For example, we did not require service to a specific airport in our interim determination of essential air transportation for Catskill/Sullivan County, New York, although the community indicated that it would prefer service to LaGuardia Airport at New York. We declined to do so because of the volume and variety of service available at each of the three major New York airports. See Order 79–7–75, dated July 12, 1979. Nevertheless, in cases where the community would prefer service at the hub through a particular airport, even though it is not required in the essential air service determination, we will in all cases give weight to carriers proposing service to that airport in selecting among proposals.

Equipment

We indicated in our proposal that it would not generally be our policy to require any specific size or type of aircraft for providing essential air transportation, except that all aircraft must be capable of accommodating passengers' baggage, meet the applicable safety standards of the Federal Aviation Administration, and, except for those aircraft operated in Alaska or at communities that have agreed to some other arrangement, must have two engines and a pilot and copilot. We also indicated a tentative decision not to require pressurized equipment as a general rule, although each community's needs would be examined and pressurized aircraft might be required in a few cases.

Most comments regarding our proposed equipment guidelines addressed three subjects: the two-engine and two-pilot requirement, pressurization, and the size of the aircraft. A majority of commenters on the equipment guidelines approved of a minimum requirement of two engines and two pilots, stating that single-engine aircraft do not generate public confidence and acceptance and that many companies will not allow business travel on aircraft with one pilot. Several other parties, including the Commuter Airline Association of America, opposed the requirement of two engines and two pilots, however, claiming that there is no demonstrable need for such requirements, that to require two pilots will unnecessarily increase the cost of the service, and that the Board should allow the community to take advantage of the lower operating costs of single-engine, one-pilot operations. The Commuter Airline Association of America also noted that existing air service at Santa Rosa, California, an eligible point, is being provided with one pilot, and that the Board has approved such service as meeting the community's essential air service requirements. (Order 79–6–130.) The State of Oregon, although it generally agrees with the two-engine, two-pilot requirement when the market can support it, pointed out that where the community's traffic level cannot economically justify larger aircraft that require two pilots (ten-passenger or larger aircraft), the community should have the option of using one-pilot service in order to give it the best chance of developing self-sustaining air service.

Several parties raised issues about safety, including a suggestion that the Board establish standards for operations and maintenance of aircraft. The DOT, however, rejected any implication in the Board's guidelines that two-engine aircraft and two pilots are necessary for safety reasons under all circumstances. It correctly noted that pursuant to section 419(c) of the Act, the Federal Aviation Administration has the responsibility over air safety related to carrier operations and was directed to establish safety standards for commuter airlines providing essential air transportation. It further indicated that this responsibility has been accomplished by Part 135 of the Federal Aviation Regulations, and that the Board has no independent authority to regulate air safety. The DOT did recognize that the Board should be concerned about maximizing the reliability of essential air service and for this reason does not object to the Board's proposed two-engine and two-pilot requirements.

We have decided to maintain the two-engine and two-pilot guideline as proposed. We fully recognize that the authority and responsibility for establishing safety standards for all air operations rests with the Federal Aviation Administration and we defer to that agency for all aircraft operational and maintenance requirements. See Sec. 398.4(b). Furthermore, our proposal in no way is intended to imply that operations with single-engine aircraft or by one pilot are unsafe. We do believe, though, that we have a responsibility to ensure a certain quality of service for essential air transportation and a certain reliability as noted by the DOT. We wish to make essential service attractive to passengers, and we believe that two-engine, two-pilot service is generally more acceptable to passengers than single-engine or single-pilot service. It is for this reason that we have chosen to require two engines and two pilots as a general rule. The responses we have received generally support this position. We recognize, however, that there may be some eligible communities that might prefer service with one pilot or single-engine aircraft for economic reasons or to receive more frequent service with smaller aircraft rather than less frequent service with larger two-engine aircraft. In fact, in some cases air service is currently being provided with single-engine aircraft or with only one pilot with the acceptance of the community. We are perfectly willing to accommodate the wishes of the community under these circumstances and we have allowed for such flexibility in Sec. 398.4(d). Our major purpose with this guideline is to assure communities that, at a minimum, essential air service will be provided with aircraft having two engines and two pilots unless the community is willing to relax this requirement.

Regarding the issue of pressurization, several commenters argued that pressurized aircraft are required for climatic reasons and for operations over mountainous terrain. Passenger comfort and medical problems were also offered as reasons for requiring pressurization. Another commentor suggested that all flights longer than 135 miles be with pressurized equipment. One community suggested that pressurization be required wherever a community can support service with larger pressurized aircraft, and yet another requested that at least a portion of each community's flights be with pressurized aircraft. A few commenters opposed requiring pressurization, one citing the adverse financial impact such a requirement would have on commuter carriers. Finally, although we specifically requested comments on this subject, the vast majority of pleadings do not address the issue.

Although we are receptive to service with pressurized aircraft, we cannot generally require it for most determinations of essential air transportation. To the extent that routings required by essential air service determinations may result in operations at high altitudes, the Federal Aviation Administration regulations for pressurization will be applicable. These regulations specify the time durations of flights at different altitudes that require pressurized aircraft, and these requirements should be sufficient. We do not find that any of the comments have presented any evidence that justifies our going beyond the basic

requirements contained in the Federal Aviation Administration's regulations. Moreover, a Board staff study, "Aircraft Pressurization and Commuter Airline Operations," June 1979 (in the docket of this proceeding), concluded with a recommendation that the Board not adopt standards for the use of pressurized aircraft that differ from those already in effect. It found that the reliability, in terms of completion factors, of commuter air carriers operating non-pressurized equipment is not substantially different from the completion factors of certificated carriers. It also found that in the short-haul, flat terrain markets, for which most replacement service will be sought, aircraft pressurization is not of significant value to passengers.

Climatic conditions that would support a requirement for pressurized aircraft are of two types: adverse weather and high temperatures. Pressurized aircraft do have an advantage in overcoming some adverse weather conditions such as turbulence. Over the short distances, however, that will normally be involved in essential air service operations, where there would be less chance of in-flight weather changes, such advantages do not seem to justify pressurization.

We are concerned about the high temperatures in some areas of the country and the possible need for air conditioning to ensure reasonable passenger comfort. The Yuma Ad Hoc Committee for Air Service cited the extremes of temperature in its pleading. We have decided not to require air conditioning as a general rule. We are confident that where air conditioning is important to passenger comfort and public acceptance of the air service, operators will respond to this need. Nonetheless, we will give great weight to any carrier proposing to provide essential air transportation with air conditioned aircraft at those communities wher there are high temperatures. And in some cases, we may be willing to require it.

Although most commenters did not discuss the size of aircraft that should be required, those that did generally addressed two issues: the relationship of the minimum size of aircraft to the size of the market and the quality of service. Views on the first issue ranged from requiring minimum size of 15-seat aircraft for all service to requiring jet aircraft if justified by the market. The main point of these arguments was that where there is sufficient traffic to support operations with larger aircraft, the Board should require service with such equipment. Views on the quality of service included concern that small aircraft do not provide adequate baggage capacity, that passenger facilities and comfort on small aircraft are unacceptable on longer flights, that the longer travel time on smaller aircraft affects the public acceptance of the service, and that operations with small aircraft are less reliable. Several commenters mentioned the current equipment shortages and contended that the Board should consider this issue when establishing its equipment guidelines.

We do not believe that we should specify the size of aircraft that should be operated. We consider that the overall capacity level required in the essential air service determinations will satisfy the regulatory need in this area and that the size of the aircraft used should be determined by the nature and size of the market, the logistical considerations regarding the service patterns, and the operating constraints of the individual carriers providing the service. Where larger aircraft can best accommodate the traffic, taking into account the length of the hop, the operational costs of the aircraft, and the levels and patterns of demand, we expect that carriers will choose to operate larger aircraft. Where there is adequate demand, operations with larger aircraft are generally more efficient. This belief is supported by the recent decisions of several commuter carriers that have been expanding their operations to purchase larger aircraft that are better suited for serving denser markets. We also note that we recently raised the limit on the size of aircraft that can be operated pursuant to the exemption authority of Part 298 to allow noncertificated operations with 60-seat aircraft. We believe this policy of permitting commuter carriers to operate larger aircraft which is an extension of the Act's 56-seat exemption provisions will result in higher level service that will enable them to meet the demand of the larger points that are eligible under the section 419 program.

With respect to adequate baggage capacity, we do not consider that a case has been made for specific guidelines. We are committed to ensuring that reasonably sufficient baggage capacity is available and will take whatever action is necessary on an individual basis.

It is true that in certain circumstances the operation of small aircraft might be less comfortable for travelers because of the smaller cabin or the absence of rest rooms, particularly on longer segments. We do not believe it is advisable to incorporate general guidelines to cover these situations, but we will give consideration to individual circumstances and where operational and passenger requirements indicate a definite need for larger aircraft we will take steps to meet these requirements. For example, by Order 79–7–198, regarding Presque Isle, Maine, having decided to designate Boston as the hub to be served, we required operations with at least CV–600 or FH–227 aircraft (40-seat aircraft) because of operational and passenger needs. We expect such cases, however, to be the exception rather than the rule.

Finally, one community raised the issue of accommodating handicapped persons. The rule adopted today does not include accessibility requirements for handicapped persons. However, we already have in progress another rulemaking proceeding on this subject. (Docket 34030; SPDR–70; 44 FR 32401; June 6, 1979.) Accessibility is a major issue in that proceeding, including the particular question of whether the applicability of some or all of the proposed requirements should depend on aircraft size.

Frequency of Flights

Except in Alaska, we suggested that generally it would be our policy to require at least two round-trip flights each day Sunday through Friday from the eligible point to the designated hub. Although the Act only requires service five days per week, it was our tentative judgment that weekend service, especially on Sundays, is necessary to meet a community's essential air service requirements.

There were relatively few comments on the subject of frequency. Only one commenter suggested an alternative to setting the minimum level at two round trips per day, contending that the minimum should be three round trips. Since our proposal seems acceptable to virtually all communities, we see no reason for changing our general minimum requirement of two round trips. The more widely addressed issue was the level of service over the weekend period. Several comments favored requiring two round trips seven days per week, especially where historic traffic and present need justify daily service. Other respondents indicated that the requirement of two round trips on Sunday and a lower level on Saturday is too rigid, suggesting instead that the requirement be one round trip on each day of the weekend or two round trips over the entire weekend period. Ozark contended that traffic on Sunday mornings is generally low and that the Board should not require two flights on Sunday since one of these would normally have to be a morning

flight due to carrier scheduling constraints. One commenter noted that some points such as vacation destinations might have different market characteristics such as high weekend traffic and low midweek demand, which would not be properly accommodated by the Board's guidelines regarding higher weekday and lower weekend service.

The comments have persuaded us that our policy regarding frequency of flights over the weekend period should be flexible, giving weight to the veiws of the community and adjusting our requirements accordingly. Therefore, we are rewording the guidelines to require as a general rule at least two round trips daily Monday through Friday and two round trips over the weekend period, as specified in individual cases after considering the views of the community. Where the traffic patterns indicate that service at a community would be better accommodated by designating a different five-day period for two round trips and the community requests such a determination, we will designate an alternative frequency requirement. In addition, where traffic levels are sufficient to warrant service daily, we will require service seven days per week.

In the preamble discussion of the proposed guidelines, we indicated that we would require enough flights to accommodate passengers at no greater than 65 percent average load factors, up to a maximum of 60 seats, based on the size of equipment and taking into account other markets at beyond or intermediate points that are being served on the flights. After considering the ramifications of this requirement, we are now concerned about whether an overall application of the 65 percent load factor requirement for all sizes of aircraft and operating patterns will consistently provide sufficient capacity. It appears, based on statistical analysis, that with smaller aircraft the potential for turning away prospective passengers is higher during peak travel periods because of the limited number of extra seats above 65 percent of the aircraft's capacity. We are also concerned about the average load factors that should be the basis of service requirements on multi-segment flights. For example, on an A–B–C–D routing where A, B, and C are eligible points and D is a common hub, if we were to base the required capacity (the product of the aircraft size multiplied by the number of flights operated) on a maximum of 65 percent load factor over the most crowded last segment C–D, the carrier might be forced to operate at extremely low load factors over the first and second sectors. On the other hand, if we were to base our requirement on an average 65 percent load factor over the entire three-sector routing, the load factor on the final sector could greatly exceed 65 percent and point C could be deprived of adequate available capacity to meet its essential air transportation needs.

We have directed our Office of Economic Analysis to undertake an examination of these situations and we propose to incorporate their findings in our analysis for determining the capacity required. This course of action does not mark a departure from our proposed position of guaranteeing capacity based on average load factors no greater than 65 percent. If nonstop, turn-around service with medium or large aircraft were being provided we would still base our frequency requirements on 65 percent load factors. Our position here is to ensure that access equivalent to that of 65 percent load factors in nonstop service with medium or large aircraft is being provided when essential air service is being offered with smaller aircraft or on multi-stop routings. In practice, we suspect that as a result of this examination we may have to require additional flights when smaller aircraft are utilized.

Maximum Available Capacity To Be Guaranteed

In our proposal, the major provision regarding capacity was that only under unusual circumstances will an eligible point's essential air service require more than 120 seats each day to be available in the market (60 seats from the eligible point to the hub and 60 seats from the hub to the eligible point).

There was substantial opposition to this guideline on several grounds. Opposing comments presented legal arguments that a ceiling does not meet the intent of the Act and that Congress indicated essential service should not be less than the existing level. Several communities suggested that the level should be set at the communities' actual needs; others contended that it should be set on projected traffic levels including a growth cushion. Some noted that historic traffic levels may have been depressed because of poor service or that traffic may have been low because people drove to other nearby communities for air service, and thus that the Board should guarantee more than 60 seats for a temporary period. It was alleged that setting a maximum capacity fails to consider the individual needs of communities. One commenter suggested that the ceiling is for the convenience of the Board and is a result of its unwillingness to look at the facts in each case. One State agency agreed that there should be a ceiling, but was not sure that 60 seats is appropriate. It was requested that the Board provide some evidence or basis for its proposed 60-seat ceiling. Several communities disagreed with the proposition that sufficient air service will be provided when a point enplanes more than 40 passengers, and one suggested that the 60-seat level does not allow for the maintenance or improvement of small community air service. Several communities commented that where service at several points is combined there should be a built-in expansion factor for the number of seats to accommodate the eligible point. One airline supported the Board's position, claiming that the limit is necessary and prevents small community considerations from spilling over into larger markets where Congress has mandated that the marketplace should prevail. The DOT supported our proposal stating that the 120 seat ceiling is consistent with the intent of Congress to guarantee essential air service needs rather than all the additional service a community may desire. It argued that a community should not be guaranteed additional seats unless it shows a compelling need because of a failure of the marketplace.

We have addressed above the argument about the intent of Congress regarding minimum and maximums and the level of service that we are directed by the statute to guarantee. As we indicated, we do not believe that the imposition of a ceiling goes against the spirit or intent of the legislation particularly if the level we choose as a ceiling is above the threshold of self-sufficiency at which the marketplace should be able to function on its own. The only remaining question is whether the 60-seat level of service is an appropriate ceiling or whether some other level should be used. Studies by the Board and the DOT on this issue indicate that self-sufficient operations would result at enplanement levels significantly below 40.[2] Since the threshold for certain markets might be

[2] The Board study indicated that points enplaning 17–18 passengers a day could support service without subsidy, but concluded that a 25 enplanement standard represents a conservative threshold of entry for unsubsidized third level operations. "Service to Small Communities, A Staff Study of the Bureau of Operating Rights, Part III," Civil Aeronautics Board, March 1973, page 5. The DOT concluded that this level is too high and that points enplaning 6 passengers daily can support unsubsidized service. "Air Service to Small Communities, A Report by the Office of Transportation Regulatory Policy," U.S. Department of Transportation, March 1976, pages 37–49.

higher than the normal levels because of unusual circumstances peculiar to the points or because of variances in operating costs of different air carriers, we have decided to set a higher level at 40 passenger enplanements. We are reasonably confident that except for unusual situations, our 40 passenger limit is above the threshold for self-sufficiency. We also note that except for requests for the Board to guarantee all the service a community could support, no one offered an alternative ceiling level. Consequently, we have decided to establish a maximum level that we will guarantee a community as the capacity required to accommodate 40 passengers per day inbound and 40 outbound which at our normal load factor level of 65 percent would require 60 seats. We have decided to define the level of service in terms of the number of passengers to be accommodated rather than seats because, as we discussed earlier under the section on frequencies, we may have to require more than 60 seats to accommodate 40 enplanements when smaller aircraft or multi-stop itineraries are operated. We have also determined (see p. 5) that in exceptional circumstances we will relax this upper limit to accommodate transition problems or special operating needs.

It was suggested that we should permit a replacement carrier to begin service and allow the incumbent carrier to depart even though there may be a temporary shortage of seats at the point. The argument for this is that the replacement carrier may need time to develop its operations and that the presence of the incumbent carrier may undermine this effort. We do not believe, however, that this should be a basis for allowing an incumbent carrier to exit or for relying on the replacement carrier when less capacity is available than required by our determination. We are obligated by the statute to ensure the level of service that we determine to be essential, and we will abide by that requirement.

Time of Flights

We proposed that, to qualify as essential air service, flights must depart at reasonable times and that it would be our policy to consider the reasonableness of the time in view of the purpose for which the passengers are traveling. If travel were primarily to connect with other flights, flight times between the eligible point and the hub would be required to link with those flights. If travel were primarily local to and from the hub, there should be at least one flight in the morning and one in the late afternoon or evening.

Comments on the timing of flights included the following: the Board indicated "well-timed" but did not specify actual times; the Board should not specify times of flights in order to afford carriers adequate control over their operations; scheduling must meet carrier needs for adequate aircraft utilization as well as community needs; the Board must become involved with realistic scheduling; and prior Board approval should be required for changes in service patterns.

Here, too, we believe that there should be adequate flexibility in the guidelines. Timing and scheduling requirements that are too specific will hinder rather than assist the development of viable and responsive air transportation. Furthermore, requiring in the guidelines that service be provided during certain specified time periods of the day may not include appropriate times for all points. Connecting banks at various hubs are at different times of the day depending upon the specific carriers serving the hub city and their service patterns. Thus, imposing more specific timing requirements does not seem practical. On the other hand, we are not convinced that the broad requirement of a morning and a late afternoon/evening flight should be relaxed because it is too burdensome on the air carriers' ability to schedule their operations, as contended by one carrier. Based on the limited number of comments that requested changes in this guideline, we believe there is general agreement with our position. Therefore, we will make final our proposed guidelines in section 398.7.

Number of Stops Permitted

We proposed to allow a maximum of two stops on flights providing essential air service between the eligible point and a hub, unless otherwise agreed with the community. We also indicated that we would require one-stop or nonstop service in markets where it is necessary to render the service usable, for example in short-haul markets. Finally, we noted that we might require turnaround service in a market if it were necessary to ensure available capacity to meet the designated level of essential air transportation.

The California Department of Transportation suggested that a maximum of two stops should be permitted only on limited occasions, since service with that number of stops is not conducive to the public interest. One community contended that all essential air service should preferably be nonstop, and another suggested that the travel time for surface transportation should be compared to the time for air travel to determine the number of stops to be allowed. On the other hand, the State of Oregon suggested the number of stops should be flexible to permit the development of self-sufficient operations, and Piedmont Aviation proposed that the maximum number of stops be relaxed when larger aircraft, over 30 seats, are used. Finally, one commenter suggested that a two-stop maximum is all right for service primarily geared to local travel to the hub, but if the essential service to the designated hub is primarily for connecting purposes, then a one-stop maximum should be imposed.

As indicated by several respondents, the number of stops permitted on flights significantly affects the quality of service in the market and in turn the public acceptance and the viability of the operations. Our proposed guideline on stops was based on the belief that as a general rule no more than two stops should be permitted between the eligible point and the hub on flights providing essential air transportation. Where nonstop or a maximum of one-stop operations are required to ensure the quality and utility of the air service at a particular eligible point, we will not hesitate to require such service. In making this determination we will consider such factors as the distances between the eligible point and the hub and the time required to travel by alternative ground transportation. In short-haul markets nonstop service will be mandatory. In several instances such as our interim essential air service determination for Catskill/Sullivan County, New York, we required that the service to the hub be nonstop. See Order 79–7–75. In general, we believe our proposal is consistent with the comments we have received on this subject. We do not agree with Piedmont that the maximum number of stops should be relaxed when larger aircraft are operated. We anticipate that the distances between eligible points and the designated hub(s) will not be so great as to either warrant or justify the operation of more than two intermediate stops. On the other hand, we do not believe that a one-stop maximum guideline should be applied to service primarily for connecting traffic as suggested by one community, since this would unduly restrict the operating flexibility of the carrier, especially if the carrier wishes to combine service to several points over the same flight routing. Therefore, we will not modify our guidelines regarding the number of stops permitted.

Guidelines for Points in Alaska

Section 419(f)(2) of the Act states that "with respect to air transportation to any point in Alaska, essential air transportation shall not be specified at a level of service less than that which existed for such point during calendar year 1976, or two round trips per week, whichever is greater, unless otherwise specified under an agreement between the Board and the State agency of the State of Alaska, after consultation with the community affected."

In PSDR-59, we noted that a number of eligible points are no longer receiving either the level of service they were receiving in 1976 or the two round trips per week, and that in these cases we would seek the concurrence of the Alaska Transportation Commission to set a determination in line with the needs of these communities. This might be less than the two round trips normally required, but it would ensure that the service being guaranteed legitimately warrants support by the Federal government. We also stated that as long as the essential air transportation level that we establish is qualitatively equal to or better than the 1976 service level, although perhaps comprised of operations with different size of equipment, number of stops or intermediate points served, the statutory mandate would be fulfilled.

On the specific service factors—hubs, equipment, frequencies, and stops—we proposed the following: essential air transportation would be service to an FAA hub (Anchorage, Fairbanks, or Juneau) or to a designated regional center that serves as a focal point for service in an area and affords direct access to one or more the the FAA hubs; no specific size of aircraft would be required for essential air service in Alaska since much of the existing service is provided by small aircraft and many of the eligible points are extremely small and generate low levels of traffic that could only justify service with small aircraft; a sufficient number of flights would be required to accommodate passengers and accompanying baggage up to 60 seats per day in each direction; and a maximum of two stops would be permitted between the eligible point and the regional center or the FAA hub, except under unusual circumstances where linear routing purposes, extremely low traffic levels, or long distances would justify additional stops. We also proposed to consider requiring a capability to handle cargo requirements and asked for comments on this subject.

Since issuing our proposal in May, we have received few written comments from Alaska representatives. However, our proposal was distributed before the regional meetings were held in Alaska in May and August, and many state and local officials addressed the issues and our tentative position at these meetings. We have transcripts from these meetings, and we have considered those views in establishing our final guidelines.

As noted in many of the presentations at the meetings in Alaska, the overall transportation needs of the state, the level of development and type of air transportation industry, and the logistical considerations in Alaska are substantially different from the rest of the country and require different essential air transportation findings. One of the major factors affecting air service in Alaska, particularly at the smaller communities, is the airport facilities. In many cases, airports consist of unpaved runways without any navigational equipment. During periods of bad weather, which are frequent, aircraft are unable to operate at these communities, and scheduled service becomes undependable because of frequent flight cancellations and delays. Consequently, the reliability of scheduled air service in Alaska is greatly reduced because of the absence of airports that can be served during adverse weather conditions. We are concerned about the importance of improved airport facilities to the development of air service in Alaska and to our statutory responsibility to ensure essential air transportation. Although we are not able to fund airport facilities under the essential air service program, where airport improvements are important to the availability and maintenance of essential air service, we are prepared to relate these needs to the Department of Transportation which has jurisdiction in this area and to urge that steps be taken to improve the airports.

Most representatives also noted the isolation of communities as a major factor to be considered in essential air service determinations. The State highway system and the availability of surface modes of transportation are extremely limited. Consequently, many communities rely almost exclusively on air transportation for all of their commercial and social ties with other communities. In many instances long distances separate the points. Even in the cases where the distances are short, often the terrain does not permit the operation of convenient and reliable surface transportation between communities.

As a result of these logistical circumstances and the relatively small populations of many Alaskan communities, a significant air taxi industry has developed in the state. The air taxis provide reliable on-demand service affording maximum flexibility in the timing of flights to meet individual's needs. This system of service being provided in response to a specific demand for transportation is very practical, especially in the low density traffic areas prevalent in Alaska. In fact, as a result of the reliability and widespread availability of this type of service as compared to the usually infrequent operation of scheduled services at smaller communities in Alaska, the air taxi carriers are handling a sizable portion of the traffic in Alaska. Furthermore, judging by their success, air taxis have demonstrated that they can operate at fares that attract passengers and yet achieve sufficient profits to remain viable. Consequently, several participants in our meetings indicated that this on-demand service meets the needs of the communities better than scheduled service and that we should consider relying on this service when making our determinations. For example, one spokesman suggested that if an air taxi will provide service for double the posted seat fare for two people at a point so that their individual cost is equivalent to the scheduled service fare then essential air service is being provided for that community. Another spokesman contended that a decision whether to rely on air taxis or scheduled service should be left to the community.

The vast majority of representatives also addressed the impact of weather conditions on the reliability and utility of air service. Adverse weather conditions frequently prohibit the operations of flights in Alaska. In addition, during certain parts of the year airport landing strips at many communities are not usable because of the affects of weather. Because of these conditions, scheduled flights are frequently disrupted, and the benefits of scheduled service is reduced. Although representatives indicated that there is very little that can be done to overcome the problems of weather, they claim that these circumstances must be taken into account if the essential air service program is to be effective and viable.

The importance of mail and cargo needs were cited almost unanimously by spokesmen at our meetings. Alaskan communities are heavily dependent on air transportation to provide this service. Frequent complaints were voiced about the irregularity of mail and

cargo service, the backlog of mail at the hubs, and the problems with the current system of postal contracting. Under the Postal Service's current contracting policy, only certificated carriers and subcontract carriers are allowed to carry mail. Frequently communities do not receive mail for extended periods because the contracted carrier has not operated a flight to the point even though during this time other carriers not allowed to transport the mail, particularly air taxis, have been operating to the point. Often, items being sent by postal service that require prompt delivery, such as perishable foods, are unnecessarily delayed at a distribution point because of this system. We favor a policy of allowing any air carrier—certificated, commuter or air taxi—to contract for mail delivery, and we have indicated this position to the Postal Service. We feel that this approach would alleviate some of the delays in mail delivery and improve this important part of air service to the communities in Alaska. At the regional meetings in Alaska, it was suggested that both freight and mail service should be subsidized on the basis of the number of days served or the actual trips performed. One person requested that essential air service guarantee the carriage of mail, particularly during the fall and spring.

Several persons presented views on the size of aircraft that should be required. Some mentioned that jet operations would be necessary because of distances and operational needs. Others requested that there be some requirements concerning both equipment and pilots. One person claimed that twin-engine aircraft with two pilots is necessary for safe flying, but an operator contended that two-engine operations is not a safety factor. Finally, it was pointed out that many large cargo items cannot be transported by smaller aircraft.

Other subjects addressed in written comments were the designating of additional eligible points in Alaska, the variable demand for air service during each season, and the designation of other points as regional service centers. On the issue of designating eligible points, the Arctic Slope Regional Commission suggested that Nugsut, Atkasook and Pt. Lay be included as eligible points. At the present time, the list of eligible points that are covered by the section 419 program is limited to those points that were named on any carrier's section 401 certificate as of October 24, 1978. Points that were deleted from a section 401 certificate between July 1, 1968, and October 24, 1978, will be examined for the purpose of designating additional points under section 419(b) after January 1, 1980. In addition, after January 1, 1982, the Board may designate additional eligible points in Alaska under certain circumstances.

On the issue of seasonal service, there was support for establishing a two-tier determination of essential air service to certain points. One party noted that in many cases traffic levels increase substantially during the summer when travel and cargo deliveries are much easier and that a program that accounts for this would be beneficial.

We have decided to rely on a system of regional service centers in addition to the FAA hubs, as we proposed earlier. We believe that his system will best meet the needs of the Alaska communities for service to their major communities of interest and for access to the national air transportation system. Although we named certain points that we would probably designate as these regional centers—Aniak, Bethel, Cold Bay, Dillingham, Fort Yukon, Galena, Ketchikan, King Salmon, Kodiak, Kotzebue, McGrath, and Nome—we will not be limited to this list. We indicated that we could designate additional regional centers and we will do so if circumstances so require. Because of the status of these regional centers as separate eligible points as well as "feeder" centers for outlying points in their area, we will require that there adequate service between the regional service center and the FAA hub to handle both the regional center's essential air service needs and the traffic seeking access to the national air system from the other eligible points served through the regional center.

We have considered the various views about aircraft requirements and we have concluded that for practical reasons we should not impose any overall minimum size guideline for aircraft in Alaska. As attested to by most spokesmen in Alaska, small aircraft are operated at almost all communities in the state. In addition, operations with small aircraft, especially air taxis, provide useful and high-quality service and are reasonably reliable given the weather constraints. Under these circumstances, we believe service with small equipment may afford the best means of meeting the air service needs of many eligible points. However, if operational requirements, distances and durations of flights between the eligible point and its designated hub or regional center require the operation of larger aircraft to provide usable service, we will include such a requirement in our determinations. In fact, we anticipate that between some regional service centers and the FAA hubs we may have to require service with jet aircraft because of the distances and the level of traffic from the surrounding communities at the regional center. We note that in many of these cases service between the regional center and the FAA hubs was being provided in 1978 with larger equipment, and by the terms of the statute we are required to maintain this level unless the Alaska Transportation Commission agrees to a different level of service.

In general, we will require sufficient frequencies to accommodate both the number of passengers and accompanying baggage as well as normal cargo requirements of the communities. We recognize the critical importance of cargo air service for the communities in Alaska and will include cargo as a factor in determining the numbers of flights and capacity of service we will guarantee. We do not aniticipate specifying actual freight capacity or aircraft to be operated for cargo purposes. Instead, we would require frequencies based on the overall passenger and cargo needs of the point. In considering cargo, we recognize that in Alaska cargo is frequently transported in the passenger compartment of aircraft and that the carriage of large cargo items can preclude the accommodation of passengers on a particular flight or alternatively the carriage of passengers may result in delays in transporting cargo. Thus, it is difficult to establish required service levels based on the separate capacity needs for passengers and cargo. We will try to examine the combined need for passenger and cargo service in determining the level of service to be required, and we expect that with the level we set both transportation needs, passenger and cargo, will be afforded service that meets the communities essential air service needs.

Although the Act has established 1978 as a reference for the level of essential air service in Alaska, as a starting point in our analysis we will examine the 1978 and 1979 service and traffic levels. If higher service than the two round trips per week or the 1976 level is warranted on the basis of the 1978–1979 experience, we will make a determination based on these higher service requirements. On the other hand, if a lower level of service than the 1976 level is warranted, we will submit that level to the Alaska Transportation Commission. We will work with the Alaska Transportation Commission in

determining the level of service that currently is needed to meet the essential air service needs of the communities and will establish these determinations with the concurrence of the Commission as provided for in the Act. We note that the statutory minimum for Alaska is two round trips per week as opposed to two round trips five days per week for the rest of the country. As with our determinations for points in other states, where traffic levels indicate a need for daily service or service at the two-round-trips per-day level, we will require such service.

We will allow variations in the number of flights depending on the size of aircraft operated and the number of intermediate stops or points beyond the eligible point that share available capacity on the flights with the eligible point. As for a maximum capacity we will guarantee, our rationale for imposing a ceiling in the rest of the country is that above the 60-seat level we are confident that the marketplace will satisfy the needs of the community for air service. Where we are confident that the marketplace in Alaska can respond to the needs of the community, we will take a similar approach. In general, we will guarantee service to accommodate up to 40 passengers and the community's cargo needs. We recognize though that the circumstances and the marketplace in Alaska are different than in the rest of the country, and therefore we will examine the individual situations to determine whether a level above this ceiling is required. As noted above, between the regional centers and the FAA hubs higher capacity levels may be required to handle both the regional point's traffic and the traffic from the outlying eligible points being served through the regional center.

Our essential air service determinations for most points will require scheduled service, and we anticipate relying on service by certificated carriers, commuter carriers operating under subcontract to the certificated carriers, and other commuter air carriers to meet this requirement. Even though our essential air service determination may only specify scheduled air service at these points, we fully expect that air taxi operators will be available and that they will play an important role in the overall air service of these communities. Alternatively, at a few points in Alaska we will consider relying solely on unscheduled service by air taxi operators for essential air transportation. We are convinced that at these points unscheduled on-demand service will provide better, more responsive service than scheduled service. The quality, reliability and public acceptance of air taxi operations in Alaska is high, and we are confident that where we rely on air taxis this type of service will meet the essential air service requirements of the community. At yet other points, we may require as our essential air service determination that both air taxi and scheduled service be available if it is felt that the on-demand service should be guaranteed as a supplement to the scheduled service.

Finally, we proposed a maximum of two stops between the eligible point and the regional point or the FAA hub. We also noted that in unusual circumstances we would permit additional stops. The purpose of this provision is to assure communities that under normal circumstances two stops at most will be permitted. In cases where the eligible point is located near the designated hub or service center, we will require nonstop or one-stop service to ensure that the quality of the service is acceptable and meets the transportation needs of the community.

Other Issues

In the May proposal we discussed several general issues—the eligibility of points, hyphenated points, cargo and the development of community information and responses—and indicated what our policy would be with respect to these items. Several comments addressed various aspects of our policy on these subjects.

Numerous communities indicated that cargo needs are a significant part of their air transportation requirements, citing the importance of air freight service for commercial and economic development and for the community to attract new industry as well as for the transporting of vital commodities such as hospital supplies. The Michigan Aeronautics Commission and the Michigan Department of Transportation, for example, argued that cargo should be included in essential air transportation determinations, especially in remote or isolated areas where access by ground transportation is not convenient and air transportation is required. It was noted that some communities experience periods in the winter when surface freight transportation cannot operate. It was suggested that we seek a statutory construction to include cargo in our determinations for points outside Alaska similar to the basis for the inclusion of cargo requirements for Alaskan points. One party proposed that cargo be covered in future legislation.

As we indicated before, given the statutory limitations and availability of surface transportation in most of the United States, it does not appear permissible or necessary for the board to consider air cargo in deciding what air transportation services we should subsidize. The situation in Alaska is substantially different. Some communities in Alaska rely exclusively on air transportation of freight, not just for limited periods during the winter, but throughout the year, because of the lack of roads. Furthermore, Congress recognized that the stage of development and needs for air transportation in Alaska are different from those in the rest of the country. This is evidenced not only in the different statutory definition of essential air service for Alaska and the provision for the Board to make exceptions for Alaska essential air service determinations when there is agreement with the Alaska Transportation Commission, but also in the testimony, hearings, and reports to Congress that preceded the Airline Deregulation Act. It is on this basis that we proposed to include consideration of cargo requirements for Alaska points. There is no similar basis for consideration of cargo needs for points outside Alaska. Furthermore, we would note that cargo service has never been required under the certificate authority of carriers at the eligible points, but has generally been available as part of the usual combination passenger/cargo service that carriers provide. We fully expect that carriers providing passenger service meeting essential air service requirements will likewise transport cargo in combination service to the extent they can. Thus, we will not incorporate guidelines for cargo other than for Alaska points.

On another issue, several communities indicated that the Board should initially subsidize higher levels of service to foster the development of traffic and the long-term viability of air service. This is basically the approach discussed in the Experimental Program section of our proposal. We will be examining later the legal possibility and economic feasibility of such a program. At this time, if such a program is undertaken, we expect that it will only be implemented at a very few communities on a trial basis.

Regarding the issue of eligibility, as we indicated in that section of our proposal, the Airline Deregulation Act explicitly sets forth the prerequisites for a point to be eligible under the section 419 program. Specifically, all points that were certificated as of October 24, 1978,

whether or not they were receiving certificated air service, are covered by the section 419 program. In addition, the Board is to develop criteria for designating additional eligible points, both in Alaska and Hawaii and also from the list of points decertificated between July 1, 1968, and October 24, 1978. There are no provisions in the Act for the Board to include any other points under the program. Several parties commented that it is unfortunate that the law does not make provisions for bringing new communities under the essential air service program, one noting that the eligibility of non-certificated points may have "fallen through the cracks" of PL 95-504, and another suggesting that the Board seek relief from the Act to designate new eligible points in the lower 48 States. We appreciate these views, and will take them under consideration. Our efforts here to develop our policy for determining the level of essential air service are not affected by any decision on the eligibility issue, however.

With respect to hyphenated points, we indicated that we would consider the views of a hyphenated community as to whether it requires service to its own airport to meet its essential air transportation needs. If traffic at a hyphenated community justifies service to both cities' airports and the primary airport in the area does not reasonably meet the essential air transportation of both cities, we might require service to both airports. We noted that the statutory minimum service level of section 419(f) could be fulfilled in these cases by the aggregate amount of service to both airports. In addition, we indicated that a community hyphenated between July 1, 1968, and October 24, 1978, could also seek to be designated as a separate eligible point under section 419(b) of the Act, on the grounds that a point that lost service at its airport as a result of being hyphenated with another point on a carrier's certificate after 1968 was in effect deleted from that certificate.

One commenter claimed that the exclusion of coverage for a hyphenated point is unjustified and that the Board should encourage service at secondary or satellite airports. Another party indicated that the Board's policy would be acceptable. The DOT suggested that hyphenated points should be dealt with as a single point, and that any consideration that would effectively alter hyphenation orders of the Board issued between July 1, 1968, and October 24, 1978, should be done within the context of eligibility determinations under section 419(b). The DOT believes that the Board should not require the division of essential service between hyphenated cities unless desired by the affected community.

We believe that the approach we have outlined will allow full consideration of hyphenated communities' views and air service needs. We also believe each community's circumstances should be examined on an individual basis and that our determination should reflect these circumstances. In conjunction with this, each hyphenated community was sent a separate questionnaire seeking its views and data on its air transportation needs. With this information, we hope to establish whether the essential air service requirements of both communities necessitate service to separate airports, or whether combined service to one airport is sufficient. For those points hyhenated prior to July 1, 1968, the statutory provisions preclude us from reviewing the hyphenated point for designation as a separate eligible point.

Two communities presented arguments on general issues related to certain groups of eligible points. The City of Stockton and the County of San Joaquin, California, claimed that the Board should establish separate guidelines for points that were previously served by more than one certificated carrier and, because of carrier suspensions, are now served by only one certificated carrier. Under section 419(a)(2)(B), the Board is required to determine what is essential air transportation for such points within six months of receiving notice that service to such points will be provided by not more than one certificated carrier. Stockton and San Joaquin alleged that because such points were historically receiving a higher level of service, the Board should guarantee a higher level of essential air transportation, including service to several hubs with jet aircraft. We find no basis for such a distinction and will not establish separate guidelines for points in this category. The statutory definition of essential air transportation applies equally to all points for which the Board must make determinations, and does not indicate that different points, other than Alaska points, should be considered under different criteria.

The Commonwealth of Puerto Rico and the City of Ponce made a similar argument for separate guidelines for points not on the mainland. They argued that because of the isolation and unique logistical relationship to the mainland, different air transportation needs exist requiring special consideration by the Board. They point out that there is a greater economic impact of air service and that direct air transportation to the mainland is vital. We will consider these views in addressing the essential air transportation requirements of the individual communities, but we do not believe there is any justification, legal or economic, for separating these points as a class and for committing the Board to a different policy framework regarding essential air transportation determinations. Such an approach would undermine one of the major objectives in establishing these guidelines: to establish a fair and consistent policy framework whereby we can examine each community individually.

In addition, there were a number of issues raised in the comments that we did not address in our proposed guidelines. For the most part, these issues are related more to the implementation of the section 419 guaranteed service and subsidy program than to the process of determining essential air transportation levels that we were proposing in PSDR-59 and PDR-66. We therefore do not believe these issues should be contained in guidelines for determinations for essential air service. However, since these issues are integrally related to the overall 419 program and there is significant concern on the part of communities and states about our policy on these matters, we would like to take this opportunity to indicate our position on these matters and how we propose to handle them.

A major concern of a number of communities and states is the issue of carrier fitness. It was noted that the Board has a statutory obligation to ensure safe and reliable air service under the essential air service program, and that to meet this mandate the Board must assess the reliability and responsibility of carriers that are providing essential air service. Specifically, they contend that the Board should examine the stability of air carriers, including their financial position, the availability of aircraft and the extent of fleet support facilities, their insurance coverage and their employee policies. It was also argued that the Board should select one carrier for meeting the essential air transportation needs of a community and charge that carrier with the responsibility for maintaining the service. One community suggested that rules on ethics and safety of carriers should be imposed. Another indicated that commuter air carrier standards are lower than those of certificated carriers and that the Board should take steps to meet its statutory

obligation to see that no commuter is allowed to serve an eligible point unless it is fit.

We recognize our statutory obligations regarding fitness of air carriers, and since passage of the Airline Deregulation Act we have undertaken major efforts in this area. Early this year we set up task forces within the Board to examine fitness issues and to develop a comprehensive approach to meeting these requirements. On July 19, 1979, we adopted a notice of proposed rulemaking, EDR-385, 44 FR 44108, July 26, 1979, that proposes to establish a new Part 204 of the Board's Regulations setting forth, among other things, the data that commuter carriers serving an eligible point must file to enable us to determine their fitness. Because of the importance and concern about carrier fitness under the section 419 program, we will briefly highlight our tentative position and proposal.

One of the major aspects of carrier fitness is safety. Throughout the Airline Deregulation Act Congress unequivocally stressed the primary and overriding importance of air safety. As we indicated earlier, the responsibility for safety in air transportation resides with the Federal Aviation Administration. That agency is responsible for establishing operating and maintenance standards and monitoring the operations of air carriers to ensure compliance with such safety standards. We have at all times considered FAA evaluations of safety an important element of our fitness determinations and will continue to do so in the future. Furthermore, to enable the FAA to evaluate the airworthiness of carriers more effectively in the future and to satisfy ourselves that the FAA's determinations are made on the best evidence available, we have recently entered into an interagency agreement with the FAA that provides for the mutual exchange of information relating to the safety of a carrier. We believe this will enable both agencies to perform their duties more fully and insure a high standard of safety in air transportation.

Another aspect of essential air service fitness is service reliability. Under section 419, we have a statutory obligation to ensure the continuous availability of essential air service at each eligible point. In meeting this we must be satisfied that the carrier or carriers relied upon can in fact provide uninterrupted service. To help us to make us to make this determination, we have proposed in EDR-385 to require that an applicant that wishes to provide essential air transportation file (1) a description of its current fleet, including the average number of hours each type of aircraft is currently flown per day and an estimate of the impact the proposed essential air service would have on its utilization of its fleet, (2) a description of the back-up aircraft available to it, (3) a description of the fuel available to it to perform the proposed essential air service, (4) detailed schedules of the service to be provided, (5) its systemwide on-time and completion record for the preceding five years, (6) a traffic forecast and (7) a statement from the State public utilities commissions, if any, or other office handling consumer complaints in each State in which the carrier operates regarding its consumer complaints record for the preceding three years. In addition, to the extent necessary, we would reserve the right to require whatever additional information is required for us to make a determination on fitness. Thus, we are committed and prepared to examine carrier fitness issues in individual essential air service cases as requested in the comments to our proposed guidelines.

Another important issue raised in the comments is fares. It was suggested that we establish specific fare setting procedures and a mechanism for monitoring fares. Several comments noted that section 419 directs the Board to ensure essental air transportation ". . . at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly predjudicial . . .". On the issue of fares, the Commuter Airline Association of America alleged that carriers should have freedom to experiment with fares and also indicated that joint fares are important in providing access to the national air transportation system for small cities. The New Haven Parties, *et al,* alleged that the Board is effectively limiting essential air transportation to commuter carriers, and with service by those carriers the Board is guaranteeing that those communities left to essential air transportation will suffer unjust and unreasonable fares, citing the higher per mile charge of commuter carriers vis-a-vis certificated carriers. The Commuter Airlines Association of America countered this allegation indicating that commuter fares are comparable to local service carrier fares for similar stage lengths.[3]

We recognize our statutory requirement to ensure essential air service at reasonable rates. We do not believe it is advisable for us to establish universal procedures for setting rates to meet this requirement, however. In general, we prefer to allow carriers to establish rates on the basis of the circumstances related to the individual market they are serving. Commuter carriers are faced with the threat of immediate entry by new carriers, and also, since the distances involved with their service is relatively short, they must compete with alternative surface transportation. We believe these competitive forces should act to ensure just and reasonable fares. Therefore, we are not convinced that there is any danger that markets served on a monopoly basis by a commuter carrier will experience unjust fare levels that would justify economically regulating this facet of commercial air transportation. Should a community believe that it is being charged unjust or unreasonable fares, however, it may petition us for relief and we will examine such claims on an ad hoc basis and take whatever steps are necessary to ensure that the statutory directives are met.

Consumer protection issues were also addressed in several comments. Specifically, some communities argued that we should adopt regulations governing baggage liability, denied boarding compensation, smoking sections on aircraft, and minimal baggage handling requirements. It was noted that the integration of connecting service with the national transportation system is extremely important to the essential air service program and that the reservations, ticketing and baggage handling capabilities must permit smooth and convenient connections. We are aware of these factors and the impact of these passenger servicing arrangements on the quality of air service. We believe it is more appropriate, however, to consider them in a general consumer protection proposal rather than here, where we are primarily addressing the level of air service that we will guarantee. We have already extended baggage liability rules to all air taxis using aircraft with a passenger capacity of more than 30 (ER-1123, 44 FR 30080, May 24, 1979) and consumer protection rules to all commuter carriers regarding oversales (ER-1050, 43 FR 24277, June 4, 1978) and smoking (ER-1091, 44 FR 5071, January 25, 1979) for operations with 30-seat or larger aircraft. These rules do not

[3] The DOT examined this issue of comparability of fares between certificated carriers and commuter carriers, concluding "that a careful analysis of available evidence indicates that commuters generally charge lower fares than regulated airlines in short-haul, less dense markets where commuters might be expected to have cost advantages." See "Air Service to Small Communities, A Report by the Office of Transportation Regulatory Policy," U.S. Department of Transportation, 1976, Exhibit 4.

address consumer issues as they relate to essential air transportation however, since we may be relying on operations of small aircraft to provide essential service at some points. Consequently, we will undertake a review of these consumer protection areas.

The availability of fuel, throughout the industry, but particularly for commuter operators, and its impact on continued operations to meet essential air service, is apparently a concern of several communities, and no doubt with the recent shortages, this concern may become more important. It was suggested that when an incumbent carrier suspends service at a point, it should be required to make its fuel available to the replacement carrier. Another suggestion was that we request the Department of Energy to make special fuel allocations for essential air service. The fuel situation is an extremely complex problem which involves varying logistical and legal considerations from one place and set of carriers to another. The transfer of fuel supplies from one carrier to a replacement carrier may not be feasible. For example, the incumbent carrier providing essential air services between A and B may be fueling its aircraft at a downline point C and the potential replacement carrier may not serve C. Or, the two carriers might be operating different types of aircraft requiring different fuel.

We have been in contact with the Department of Energy (DOE) and are now drafting a Memorandum of Understanding that will outline the procedures for co-ordinating the efforts of the two agencies to assure supplies of fuel for commuter carriers providing essential air service. Although not yet finaly adopted, the agreement probably will require the DOE to investigate reports of fuel unavailability for commuter carriers and to contact the carrier, the fixed base operator, and the fuel supplier to attempt to obtain additional fuel. The Board for its part will monitor the fuel availability situation and will advise the DOE if a carrier providing essential air service is having difficulty obtaining fuel. The Board may also, when advised by DOE that fuel cannot be obtained for a potential replacement carrier, notify the incumbent carrier that it may not have leave the market until its replacement has been able to make satisfactory fuel supply arrangements. We will continue to work with the Department of Energy to overcome any problems in this area.

Several comments addressed the subsidy program under section 419. One commenter proposed that the Board determine the anticipated subsidy level for essential air services at a point prior to the Board's examination of operating proposals and selection of an air carrier. Another noted that subsidy must include a fair return on investment. One commenter contended that the subsidy cutoff level should not be tied to the essential air service level that the Board will guarantee and that subsidy should decrease over time. The Act directs us to determine the level of essential air service and to guarantee that level with subsidy if necessary. Thus, by the terms of the Act, whatever level of service we require to meet a community's essential air service needs is potentially eligible for subsidy, although in most cases we expect operations above a certain level to be self-sufficient. In any event, our primary responsibility is to ensure the essential level of service. In those instances where a carrier found to be fit under our fitness criteria is prepared to meet this service requirement without government financial support, we will not be providing subsidy. Where carrier selection is required, we will assess the quality of the service proposed as well as the subsidy request in making our selection. We will be addressing the issues involved in the specific computation of subsidy in a later rule.

Since this rule is a statement of policy and must be in effect if the Board is to meet the statutory deadline imposed by section 419 of the Federal Aviation Act, we find the good cause exists for making this rule immediately effective.

Accordingly, the Civil Aeronautics Board adds a new Part 398, *Guidelines for Individual Determinations of Essential Air Transportation*, to Title 14 of the Code of Federal Regulations as set forth below:

PART 398—GUIDELINES FOR INDIVIDUAL DETERMINATIONS OF ESSENTIAL AIR TRANSPORTATION

Sec.

398.1 Purpose.
398.2 Number and designation of hubs.
398.3 Specific airports.
398.4 Equipment.
398.5 Frequency of flights.
398.6 Maximum available capacity to be guaranteed by the Board.
398.7 Time of flights.
398.8 Number of stops permitted.

Authority: Secs. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 763, 92 Stat. 1732, 49 U.S.C. 1324, 1389.

§ 398.1 Purpose.

The purpose of this part is to establish general guidelines for determination of essential air transportation for each eligible point under section 419 of the Act. Procedures for the determinations of the essential air service level for a point are in Part 325 of this Chapter.

§ 398.2 Number and designation of hubs.

(a) *What is a hub?* The Board considers a hub to be any point enplaning more than 0.05 percent of the total enplanements in the United States

(b) *How many hubs?* (1) The Board will require service to one or two hubs. The Board will require service to two hubs if an eligible point has close commercial, geographical, and political ties to both hubs and if there if sufficient traffic from the eligible point to support two round trips per day to both hubs. If traffic is not sufficient, the Board may require one round trip per day to both hubs if the community requests such service.

(2) In no event will essential air service be service to more than two hubs.

(c) *Which hub?* (1) In designating hubs, the board will weigh all of the following factors:

(i) The extent to which candidate hubs provide access to the national air transportation system;

(ii) The commercial, geographic, and political ties of candidate hubs to the eligible point;

(iii) The traffic levels to candidate hubs, as shown by traffic studies and origin and destination data;

(iv) Distance of hubs from the eligible point; and

(v) Size of candidate hubs. (Large size will be a positive factor, but mainly as substantiating the access and community ties factors.)

(2) For Alaska, rather than requiring service to a hub, the Board may only require that service from an eligible point be to a focal point for traffic in the area of the eligible point that has service to a larger hub.

§ 398.3 Specific airports.

(a) Essential air service may be specified as service to a particular airport at the eligible point. In the case of hyphenated points, essential air service will be specified as service to more than one airport only if clearly necessary and if the multiairport service is economically feasible and justified on the basis of traffic levels at these airports.

(b) Essential air service does not usually require service to a particular airport at a hub.

§ 398.4 Equipment.

It is not generally the policy of the Board to require any specific size or type of aircraft for providing essential air transportation except that—

(a) All aircraft must be sufficient to accommodate passengers and accompanying baggage at the point;

(b) Larger aircraft may be required over long distances;

(c) All aircraft must meet the applicable safety standards of the Federal Aviation Administration;

(d) All aircraft, other than those serving points in Alaska or points that have agreed to some other arrangement, must have two engines and be operated with two pilots;

(e) Pressurized and air conditioned aircraft will be required when absolutely necessary to provide usable air service at the eligible points; and

(f) The aircraft must be conveniently accessible to passengers by stairs rather than over the wing.

§ 398.5 Frequency of flights.

(a) Except in Alaska, it is the policy of the Board to require at least two round-trip flights on each weekday and two round trips over the weekend from the eligible point to the designated hub, unless the point was receiving less than that in 1977 and cannot support such service at 60 to 65 percent average load factors.

(b) In Alaska, it is the policy of the Board to require either two round trips each week to each designated hub or focal point, or the level of service that existed for the point in 1976, whichever is greater, unless such service is clearly unnecessary and the Alaska Transportation Commission agrees that a different level of service would meet the needs of the community.

(c) An essential service level may be set at more than that stated in paragraphs (a) or (b) of this section if—

(1) Historic traffic data and studies of traffic generating potential of the point indicate that more frequent service is needed to accommodate passengers and accompanying baggage with the aircraft used at that point;

(2) More flights are needed because the capacity available to the eligible point is being shared with traffic destined for an intermediate stop or for a point beyond the eligible point;

(3) More flights are needed to accommodate passengers because smaller aircraft are being used at the point; or

(4) For Alaska, the Alaska Transportation Commission agrees that more frequent service is needed to accommodate cargo traffic with the aircraft used at the eligible point.

(d) For eligible points where traffic levels vary with the season, a two-tier level of essential air service will be established with required flight frequencies changing accordingly.

§ 398.6 Maximum available capacity to be Guaranteed by the Board.

(a) Only under unusual circumstances will an eligible point's essential air service level be fixed at a number of flights that will accommodate more than 80 passengers each day at the point (40 passengers from the eligible point and 40 passengers back to that point). Generally, 80 passengers can be accommodated by guaranteeing 120 available seats each day at the point (60 seats in each direction).

(b) The Board may guarantee an eligible point more than 120 seats each day if:

(1) The number of stops between or beyond the eligible point and the hub results in available aircraft capacity serving at the eligible point being shared with passengers at those intermediate stops or beyond points;

(2) The distance between the eligible point and the designated hub requires the use of large aircraft;

(3) The eligible point is extremely isolated;

(4) The eligible point has suffered an abrupt and significant reduction in its service that warrants a temporary increase in the maximum guaranteed capacity for that point; or

(5) Other unusual circumstances warrant guaranteeing the eligible point more than 120 seats each day.

(c) Eligible points receiving self-sufficient air service will, in the event of service reductions, generally not be guaranteed more than 75 percent of their present level of service to a maximum of 60 available seats each day in each direction (120 seats total).

§ 398.7 Time of flights.

To qualify as essential air service, flights must depart at reasonable times. It is the policy of the Board to consider the reasonableness of the time in view of the purpose for which the local passengers are traveling. If travel is primarily to connect with other flights, local flight-times should be designed to link with those flights. If travel is primarily local, there should be at least one flight in the morning and one in the late afternoon or evening.

§ 398.8 Number of stops permitted.

(a) A maximum of two stops is permitted in providing essential air service between the eligible point and a hub, unless otherwise agreed with the community.

(b) In Alaska, more than two stops may be permitted if required by low traffic levels at the eligible point or by the long distance between the eligible point and the hub.

(c) The Board may require one-stop or non-stop service when that is necessary to make the service usable.

(d) Where an eligible point normally is an intermediate stop that shares available capacity with another point, it is the policy of the Board to either require additional capacity (more flights or larger aircraft) between the hub and the eligible point or to specify some turnaround operations in that route segment.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

Airport Commission of Forsyth County
Appalachian Regional Commission
Arctic Slope Regional Corporation
Aspen Airways, Inc.
Board of County Commissioners Carteret County
California Department of Transportation
California Public Utilities Commission
Carlsbad, Clovis and Hobbs, New Mexico
Central Vermont Chamber of Commerce
Central Wisconsin Airport
City of Aberdeen, South Dakota
City and County of Alamosa, Colorado
City of Asheville, North Carolina
City of Baker, Oregon
City of Bimidji, Minnesota
City of Corvallis, Oregon
City of Douglas, Arizona
City of Eugene, Oregon
City of Fayetteville
Cities and Chambers of Commerce of Garden City, Dodge City, Great Bend, and Hays, Kansas
City of International Falls, Minnesota
City of Lyncburg, Virginia
City of McAlester, Oklahoma
City of Modesto, California
City of Redding, California
City of Redmond, Oregon
City of Santa Barbara, California
City of Stockton and the County of San Joaqiun, California
City of Thief River Falls, Minnesota
City of Worthington, Minnesota and the Municipal Airport Commission
Columbia Regional Airport
Columbus Airport Commission
Columbus Metropolitan Airport
Commonwealth of Massachusetts
Commonwealth of Puerto Rico and the City of Ponce
Commonwealth of Virginia
Commuter Airline Association of America, Inc.
Connecticut Department of Transportation
Corning and Cheming County Chamber of Commerce
County of Humboldt, California
Delta Air Lines
Duluth Airport Authority
Enid, Oklahoma
Florida Public Service Commission and the Florida Department of Transportation
Four Corners Regional Commission
Great Northern Airlines, Inc.
Green Hills Aviation, Ltd.
Hulman Field Airport Authority
Igor I. Sikorsky Memorial Airport
Illinois Department of Transportation

Indianapolis Airport Authority
Iowa Department of Transportation
Jackson County, Oregon
Kansas Department of Transportation
Kern County Department of Airports
L.A.B. Flying Service, Inc.
Lake Charles Municipal Airport
Michigan Aeronautics Commission and the Michigan Department of Transportation
Minnesota Department of Transportation and the Local Airline Service Action Committee
Mississippi Airport Managers Association and the Mississippi Aeronautics Commission
Monterey Peninsula Airport District
Mount Vernon Airport Authority
National Assoication of State Aviation Officials
New Hampshire Aeronautics Commission
New Haven Parties, the Peoria Parties, the Rockford Parties and the Midland Parties
New York Department of Transportation
North Slopes Borough
Ozark Air Lines
Panama City-Bay County Airport and Industrial District and the Bay County Chamber of Commerce
Piedmont Aviation, Inc.
Ponca City, Oklahoma
Port of Portland
Routt County Airports
San Luis Valley Council of Governments
South Dakota Airport Management Association
South Dakota Department of Transportation
State of Arizona
State of New Mexico Transportation Department
State of North Carolina
State of Oregon
State of Vermont
State of Wisconsin Department of Transportation
Texas Aeronautics Commission
U.S. Postal Service
U.S. Department of Transportation
University of Illinois at Urbana-Champaign
Utah Air Travel Commission
The Yuma Ad Hoc Committee for Air Service

CAB Regional Offices [4]

1. Joseph W. Mullin, Regional Director—OCCR, Civil Aeronautics Board, Logan International Airport, Old Tower Building, Third Floor, East Boston, Massachusetts 02128 (617) 567–3301.
2. William W. Critchfield, Regional Director—OCCR, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202) 673–5191.
3. Samuel C. Clark III, Regional Director—OCCR, Civil Aeronautics Board, Atlanta, Georgia.*
4. Edward L. McCusker, Regional Director—OCCR, Civil Aeronautics Board, Dallas, Texas.*
5. Dean Sparkman, Regional Director—OCCR, Civil Aeronautics Board, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374–6393.
6. John T. Smith, Regional Director—OCCR, Civil Aeronautics Board, 2555 Flores Street, Suite 395, San Mateo, California 94403 (415) 574–3153.
7. P. R. Steinman III, Field Representative, Civil Aeronautics Board, 701 C Street Box 27, Anchorage, Alaska 99513 (907) 271–5146.

[FR Doc. 79-27939 Filed 9-6-79; 8:45 am]

BILLING CODE 6320-01-M

[4] Map filed as part of the original document.

* These are newly-established offices and the representatives may be contacted through OCCR Headquarters, in Washington, (202) 673–5191.

14 CFR Part 325

[Regulation PR-213; Enactment of Part; Docket 35464]

Essential Air Service Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. August 31, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB adopts procedures for evaluating the essential air transportation needs of small communities. This rule is being adopted at the Board's own initiative.

DATES:

Effective: September 7, 1979 except for sections 325.4, 325.7, and 325.10 which are subject to GAO clearance.

Adopted: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5408.

SUPPLEMENTARY INFORMATION:

Background

By PDR–66, 44 FR 27435, May 10, 1979, the Board proposed procedures governing the determination of essential air service levels under section 419 of the Act. This proposal followed a series of regional meetings, which were part of the Board's efforts to gain a large amount of advice from the public and affected communities.

Section 419, "Small Community Air Service," was added to the Federal Aviation Act by the Deregulation Act of 1978 (Pub. L. 95–504). It is intended to ensure that, as Board control over carriers' entry and exit is eased, small communities retain at least essential air service. Toward this end, the Board must determine what level of air service is the essential level for each community. The Board may make these determinations only for communities classified as "eligible points" by the Act. Eligible points are those listed on an air carrier's Section 401 certificate, those deleted from such a certificate between 1968 and 1978 that the Board designates as eligible, and other points in Alaska or Hawaii that the Board designates as eligible. Eligible points are entitled to an essential air service determination from the Board when they are served by one or no certificated air carriers. There are approximately 555 such points, and their essential service determinations must be issued by the Board before October 24, 1979.

The Board's proposal was intended to encourage maximum public participation. It was proposed that State and local participation be facilitated by mailing questionnaires to local officials. They would usually have 60 days to respond, and during that period any other person could submit information on a community's air service needs. The Bureau of Domestic Aviation would have delegated authority to issue initial determinations of a point's essential air service level. Comments were specifically requested on this proposed delegation of authority.

Thirty days after the initial determination was issued, any person would have the right to appeal. During this period the level of service set by the initial determination would be considered the essential level, although it would be subject to change if the Board found for the community on the appeal. The proposal envisioned an informal conference procedure as the method for pursuing the appeal.

After the determination became final, a community could still petition the Board to have it modified. The proposal also would allow the Board to periodically re-examine a community's air service needs and issue a new determination if it was justified. Finally the proposal established format and service requirements for documents and exempted communities from the requirement of filing environmental evaluations and energy information.

Essential Service Determination Process

Delegation of authority. The most frequent objections to the proposed procedural rule involved the delegating of authority for making the service determinations and the proposal for handling the appeals of that determination. Commenters were concerned about the staffing at each decisional level, the role of the Board, the timing, location, and form of the hearing on the appeal, and their level of service while the appeal was pending. The basis for most objections appears to be a belief that the entity that issues the service determination should not be the one processing the appeal. The primary role of the Bureau of Domestic Aviation (BDA) in both the determination of essential air service and in the appeal

was labeled unfair, a conflict of interest, or a violation of due process by a number of commenters. They feared that the Office of Community and Congressional Relations (OCCR) and Board Members would not have a role commensurate with their knowledge of the communities' situation and the importance of these determinations.

Upon reflection, we agree that it would avoid a possible appearance of unfairness to have the appeals handled by an entity more broadly constituted than the one making the essential service determination. The concerns expressed about the role of OCCR and Board Members, however, do not appear to be justified. Although by OR–156, adopted simultaneously, we are delegating to the Director, BDA, the authority to make the determinations of a point's service needs, both OCCR and the Board have key roles in the appellate process. OCCR will have a representative on the three-member panel (discussed below) and the Board will make the final decision of the community's air service needs.

The delegated method will create a greater appearance of fairness since most of the parties at the appellate level will not have been intimately involved at the initial determination stage. It will also be administratively more efficient and will expedite the service determination process without depriving a community of the right to bring its case before the Board. The Board always has the final authority to determine a community's essential air service. OR–156 merely adds a new paragraph to § 385.13 that allows BDA to exercise this authority in the initial decisional phase. BDA will indeed be the one issuing the essential service determination, but the Board can always review this determination where it is appealed. This will allow the Board to concentrate on those items warranting its consideration. Regardless of who issues the essential service determination, therefore, a community will *always* have the right, under § 325.7, to have its air service needs considered by the full Board.

Processing of appeals. The staff's role in the appellate process will be to process the appeal and recommend a disposition based on their knowledge of the particular situation and their discussions with community representatives. The Board will be the ultimate arbiter of all appeals. Communities therefore need not fear that their air service needs will be finally decided at the staff level.

In order to avoid any appearance of unfairness in the appellate process, we are establishing a three-member staff panel, with only one member from BDA, to process the appeals and recommend a disposition to the Board. The BDA member will have some familiarity with the community's situation, while the other two members, one from the Office of General Counsel (OGC) and one from OCCR, will not have been intimately involved in the service determination, and will therefore take a fresh look at the issues. This three-member panel is the separate entity that several commenters sought.

Informal conference. After an appeal is filed, a conference with the community will usually be held. There were many suggestions on the form of this conference and on who should chair it. Some favored a formal hearing chaired by an Administrative Law Judge. Other suggestions were to have a semi-formal conference, a hearing before the Board, a shortened hearing, an arbitration hearing, a bargaining session, or any one of the above at the community's option. Among those who favored the informal conference procedure, the suggested chairmen were an Administrative Law Judge, an official from a regional office, an official of OCCR, or a Board member.

We have decided to retain the informal conference procedure with a senior official of OGC or OCCR acting as chairman in most cases. A Board Member could conduct some conferences. Additional Board staff, including BDA senior staff, might also be involved. The chairman of the conference will report to the three-member panel, who in turn will make a recommendation to the Board. Anyone may attend the conference, including employees of the carriers serving the point involved.

We are convinced that formal hearings are not best suited to essential air service determinations. Our experience in the communities for which we have already made interim service determinations has demonstated that an informal discussion between Board staff and community representatives can lead to a quick and satisfactory resolution of the issue at a minimum of expense to the community. An adversary adjudicative hearing is not appropriate here, as we are trying to work with the communities in ensuring them essential air service. Here, in contrast to some route cases, BDA is not an adversary party. A conference structure will allow Board officials to sit down with community representatives to explore and perhaps agree on a pattern of service. This is what Congress intended when it directed us to consider the views of the interested community. See 124 Cong. Rec. S. 5874 (daily ed. April 19, 1978) (remarks by Sen. Cannon). The conference will give members of the affected community, not versed in the technicalities of administrative law, the opportunity to present their views directly to the decision-makers.

The informal conference will have the virtues of simplicity and brevity. It will not be slowed by motions, depositions, prehearing conferences, swearing of witnesses, or rules of evidence as are formal hearings. A quick resolution may be crucial to communities in imminent danger of suffering reductions and to those whose service was suspended prior to passage of the Deregulation Act and are therefore already deprived of essential air service.

In most cases, communities will pursue their appeals by filing written submissions and attending informal conferences. In appropriate situations, the rule also allows oral arguments before the Board. Oral arguments will not be held in every case, but when several appellants raise similar issues in their pleadings, it may help resolve the problem if the views of these communities are presented to the Board. In those cases we will hold an oral argument, probably in Washington, D.C.

Service level pending appeals. Regardless of the procedure adopted, no appeal can be decided instantly. The question of what level of service will be guaranteed to a community while its appeal is pending therefore is a significant concern. Several communities commented on this issue. Some asked that a point's essential service determination be stayed pending the outcome of the appeal. Others sought to have their existing service maintained in order to avoid service disruptions while the appeal is pending.

The Board has decided to adopt § 325.7(e) (now § 325.7(g)) as proposed and have the determination become effective upon issuance, subject to whatever modification is required by the disposition of the appeal. Those who asked that the determination be stayed may not fully appreciate what such a scheme would mean. Currently, carriers may be able to reduce service to the statutory minimum level set by section 419(f) of the Act (two round trips five days per week or the level of service the eligible point received in 1977, whichever is less) without giving the Board or the affected community any notice at all. When a service determination takes effect, however, a carrier must give 90 days notice (30 days for commuters) before it can reduce service below the level set by the determination. The Board also has the authority to require the carrier to

continue its service after the end of the notice period. To stay the effectiveness of the determination, however, would leave the community to petition the Board under § 419(a)(10) and the Board would not be obligated to guarantee more service than required by section 419(f). Thus, the service determination is not likely to provide a community with less protection from service reductions than section 419(f), and will often provide more. It is therefore in the interest of communities to have an essential air service determination take effect as soon as possible, for whatever additional protection it provides.

It is true that communities would usually be even more protected from service disruptions if the Board were to guarantee their existing level of service while their appeal is pending. It is doubtful, however, that we have the power to do so, or that such action would be consistent with the public interest and the underlying policy of deregulation. The current regulatory structure is intended to give carriers the freedom to respond to market forces. They should be able to shift their operations as long as essential service is maintained at the small communities. The only legal basis on which the Board could prevent a carrier from altering its service at a point while an appeal was pending would be to define the present level of service at that point as the essential level. This would place the Board in the contradictory position of defining the current level of service as essential when it had just issued a determination that another level of service was essential. While we are resolving this question by having the service determination take effect doing so does not create any presumption against the validity of a community's appeal.

Continuity of service pending appeal should not often be a problem. Carriers have usually been able to reduce service to the statutory minimum level of section 419(f) since the Deregulation Act was passed. There is no reason to believe that carriers that have not done so will use the occasion of the issuance of the essential service determination to institute large scale service reductions at the affected point. Should a carrier decide to do so, however, the community may still petition the Board to prevent it. The community will be able to learn of such service changes in advance either from a notice received under section 401(j) of the Act or from the schedule changes posted in the Official Airline Guide and filed with the Board. It is in the carrier's own interest to provide adequate notice of major cutbacks in service in order to maintain public goodwill. In a letter to the airline industry on May 8, 1979, we urged carriers to serve formal notice on the community and hold informal discussions with its leaders at least four months prior to service reductions. This will avoid confusion and ill feeling, and give the community time to implement alternative service.

In especially serious cases, as explained in PS–87, we may make a finding of a major transitional problem, and issue a transitional essential air service determination guaranteeing a higher level of service (not necessarily the existing level) for a temporary period. This could be done even if a community has not appealed. In most cases, if there appears to be a threat of a service loss at an appealing community, we will expedite its appeal.

Miscellaneous issues concerning the determination process. Various commenters made other suggestions about the essential air service determination process. The Texas Aeronautics Commission thought it best if we awaited a change in the community's service before issuing essential air service determinations for that point. Texas stated that the service determination will have no meaning to the community it affects unless it is made contemporaneously with the change in air service. Section 419, however, leaves no discretion on that point; it sets firm deadlines for essential service determinations. In any event, if upon receiving notice from a carrier of a service change a community desires another service determination, it can file an objection under 14 CFR § 323.9 to the carrier's notice and suggest a new level of essential air service. The community could also, under § 325.10 of the rule adopted here, petition for modification of the original essential air service level set by the Board.

Enid, Oklahoma asked us to obtain community input before issuing the service determinations. South Dakota and the Appalachian Regional Commission thought this should be done by a formal hearing or an informal conference. The Board has decided to rely on its questionnaire as its primary method of data gathering in the initial stage. (In response to NASAO's question on what was meant by the "data gathering process," we were referring to the questionnaire.) The questionnaire is not an "illusory consultation" as Lynchburg, Virginia suggested, but will be heavily relied upon by BDA. It and any other information supplied by the community will provide the data needed to make the service determinations, and can be supplemented by requesting additional information where necessary.

We find that it would not be worthwhile to hold conferences at the initial stage. Board resources would be better concentrated on appeals. Although an early conference might reduce the appeal workload, it would increase the time needed to make the service determinations. It will be more efficient to issue a determination and let the community inform us of a disagreement by filing an appeal. We expect that most determinations will not be controversial and there will be a need to hold conferences for relatively few communities.

Several commenters asked that the period for responding to the questionnaire be extended. Because of the statutory deadline, we are not able to grant this request. In response to the concern expressed, however, we will begin the response period at the date of receipt rather than at the date on the questionnaire as originally proposed. The Board will not ignore a response merely because it was filed late. California, however, has asked that we allow their response to be filed a month and a half late. Waiting that long to begin action will make it difficult for us to meet our statutory obligation. California's request is being dealt with in a separate document.

One commenter asked that a mayor be allowed to designate an agent to receive the questionnnaire and other documents and that others have the opportunity to be placed on the mailing list. No change is needed to do that. Anyone can receive documents by writing to the CAB's Docket Section and asking to be placed on the service list for a particular docket number. A mayor can designate an agent by having that person's name placed on the docket's service list.

The Columbus, Georgia Airport Commission asked that service determinations be a two-step process, first designating the hub or hubs and then determining how many flights should be required. In fact, that is what occurs, but it is more convenitent to include all these determinations in one order. For the sake of convenience, more than one community may be included in one order. That will not mean that each factor of each community's service was not independently analyzed.

The New Mexico Department of Transportation suggested that the Board use a show-cause procedure for essential air service determinations. That procedure would present the same problem of delayed effectiveness that was discussed above. It may not provide the community with as much protection

from service reductions as an essential service determination that is immediately effective. Aside from the timing of effectiveness, there is little difference between the procedure proposed by New Mexico and the one adotped here. Both are subject to objections and to revisions on appeal. The burden of proving that the determination made under delegated authority was wrong will be no heavier merely because the determination has been made temporarily effective.

Some commenters asked us to extend the period for filing appeals and to establish a fixed period for deciding them. We are adopting a 60-day period for filing appeals but, we cannot grant the latter request. The Small Community Program is new to the Board. We cannot be sure in advance how many appeals will be filed or how long each one will take. The informal conference procedure established by this rule should permit a quick resolution of appeals, but we are not prepared at this time to fix a deadline that may be impossible, in practice, to meet.

Periodic Reviews and Modifications

Although it did not evoke as great a response as the sections on the determination process, there were several comments on the proposal concerning periodic reviews and petitions for modification. Kern County, California stated that the 3-year interval for reviewing the service level set for unsubsidized points was too long, while several Kansas communities viewed the 1-year interval for subsidized points as not long enough. If the interval is too short to make a valid assessment, we will merely affirm our original determination and wait an additional period (ordinarily another year) before reviewing the point's service level again. Those who are concerned about the time between periodic reviews should be aware that § 325.10 permits any person to petition the Board for a modification of their designated service level at any time, so that a community can force an earlier review from the Board. In addition, BDA and OCCR are monitoring the service at eligible points and could initiate an earlier review if it were warranted. There is little practical difference between a petition for modification and a periodic review; one is initiated by the community and the other by the Board.

Several commenters asked us to outline the factors that will be considered during periodic reviews and evaluations of petitions for modification. Generally, we will consider the factors set forth in our essential air service guidelines (14 CFR Part 398), which are also being issued today. These include hub and equipment suitability, and whether the point has demonstrated the need for more available seating capacity. They will require the Board to study the community's patronage of the service and any demographic changes that have occurred since the original essential air service determination was issued. We will consider the availability of fuel and the adequacy of terminal or airfield facilities at the point to the extent that their condition would prevent implementation of the service level that we set. Also, a carrier's performance in providing the service will be considered relevant as explaining a lack of passenger patronage, but will not otherwise be our main focus in a review of an essential air service determination under this rule. We are aware that there have been instances where a replacement carrier has not provided the level of service expected of it. Communities that agree to the service level set by the Board but object to the service being provided by a particular carrier should so notify the Board. In such instances, we will re-evaluate (formally or informally) our reliance on the carrier to provide the essential air service.

The State of South Dakota read proposed § 325.9 (now § 325.10) as making it easier for a person to petition for a modification of an essential air service level than for the community involved. This is not the case. The use of the word person is not meant as a restrictive term. A community representative can seek a modification of that point's essential service level merely by filing a petition under § 325.10. Any member of the community, the carrier serving point, or anyone else who disagrees with the petition or does not believe it represents the interests of the community may file an answer under § 325.10(c).

Energy and Environmental Information

The U.S. Department of Transportation and the New Haven parties objected to proposed § 325.12 (now § 325.13), which exempted applicants and petitioners under this part from the requirement of filing energy and environmental information that is usually required by 14 CFR Parts 312 and 313. We are acutely aware of the energy and environmental problems that confront this nation. Nevertheless, it does not appear that the Small Community Program, with its emphasis on a relatively small number of short-haul flights by commuter aircraft, will have a significant impact on these problems. No one, however, is precluded from filing environmental or energy information with their appeal, petition, or answer, and the Board will request such information in cases where it appears to be needed. Energy concerns will probably be of greater importance when the Board is selecting carriers to provide the air service that it has determined to be essential. Therefore, we will require carriers to submit energy data with their fitness filings.

Summary of the Final Rule

Under the final rule, communities and members of the public have numerous opportunities to make their views known to the Board. Questionnaires have already been sent to all communities involved in our first set of essential air service determinations. Communities should respond within the designated time and serve their responses on those listed in § 325.4(a) and § 325.12. The Director, Bureau of Domestic Aviation will issue determinations of essential air service levels for each eligible point entitled to one under section 419 of the Act and § 325.5 of this rule. These determinations will be based on the guidelines contained in 14 CFR Part 398, which is also adopted today. If the community is not satisfied with the determination, it or any other person can file an appeal within 60 days. This appeal should show either how the determination does not conform to the Part 398 guidelines or what special circumstances of the community justify a deviation from the guidelines in its case. The Board will decide the appeal on the basis of the written submissions of the parties, the result of the informal conference or oral argument if one is held, and the recommendation of the three-member panel. While the appeal is pending, the Board will guarantee service at the point up to the level that the service determination set as essential.

After the essential air service level for a point is finally set, a community can petition to have that level changed. This petition for modification can be filed by any person at any time. A petition that demonstrates a need to re-examine a point's service level will start the determination process over again. Where additional State and community views are needed the Board may mail a questionnaire or otherwise seek the views of the affected community. This will be followed by the issuance of a new service determination under delegated authority to which an appeal could be filed. Regardless of whether a petition for modification is filed, the Board will periodically mail a modified questionnaire to eligible points that had previously received an essential service

determination. Six months after completing the review of the essential air service needs of those points, an essential air service determination will be issued under delegated authority. This determination may be appealed and an informal conference might be held.

All responses, appeals, petitions, and answers filed under this rule must comply with the format requirements of § 325.11 and the service requirements of § 325.12. They need not contain environmental evaluations or energy information unless the Board specifies otherwise. For any questions that arise that are not covered by this rule, reference should be made to Subpart A of 14 CFR Part 302 for guidance.

This part requires communities to prepare and submit certain information to the Board in order to receive or modify an essential air service determination. The rules are being made effective immediately, as explained below, except for §§ 325.4, 325.7, and 325.10, which are being submitted to the General Accounting Office for review under the Federal Reports Act (44 U.S.C. 3512). The questionnaire provision of § 325.4 has already been approved by the GAO under numbers B–180226 (S. 79012 and S. 79013). Communities are not precluded from appealing or petitioning using the procedures in §§ 325.7 or 325.10. GAO, however, will conduct its review to ensure that a minimum burden is imposed upon communities and that the information required is not already available to the Board. We will publish a notice of GAO's decision as soon as it is received.

The Rule

Since this rule is procedural in nature and must be in effect if the Board is to meet the statutory deadline imposed by section 419 of the Federal Aviation Act, we find that good cause exists for making it immediately effective.

Accordingly, the Civil Aeronautics Board adds a new Part 325, *Essential Air Service Procedures*, to Title 14 of the Code of Federal Regulations as set forth below:

Part 325—Essential Air Service Procedures

Sec.

325.1 Purpose.
325.2 Applicability.
325.3 Definitions.
325.4 State and local participation.
325.5 Essential air service determinations.
325.6 Periodic reviews.
325.7 Appeal of the essential air service determination.
325.8 Informal conferences.
325.9 Oral arguments.
325.10 Modification of the designated level of essential air service.
325.11 Form of documents.
325.12 Service of documents.
325.13 Environmental evaluations and energy information not required.
325.14 Conformity with Subpart A of Part 302.

Authority: Secs. 204 and 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389.

§ 325.1 Purpose.

The purpose of this part is to establish procedures to be followed in determinations of essential air transportation levels for eligible points, and in the appeals and periodic reviews of these determinations, under section 419 of the Act.

§ 325.2 Applicability.

This part applies to essential air service determinations for points designated as eligible under section 419 of the Act. It applies to the gathering of data by the Board, and to the participation of State and local and other officials and other interested persons, in the determination process.

Note.—Guidelines for deciding essential air service levels are contained in Part 398 of this chapter.

§ 325.3 Definitions.

As used in this part, "eligible point" means—

(a) Any point in the United States, the District of Columbia, and the several territories and possessions of the United States to which any direct air carrier was authorized, under a certificate issued by the Board under section 401 of the Act, to provide air service on October 24, 1978, whether or not such service was actually provided;

(b) Any point in the United States and the several territories and possessions of the United States that was deleted from a section 401 certificate between July 1, 1968 and October 24, 1978, inclusive, and that the Board designates as an eligible point under the Act; or

(c) Any other point in Alaska or Hawaii that the Board designates as an eligible point under the Act.

§ 325.4 State and local participation.

(a) The Board will send a questionnaire to each eligible point that is served by not more than one certificated air carrier, or is designated as an eligible point under section 419(b) of the Act, or for which the Board is reviewing its essential air service needs. The questionnaire will be addressed to:

(1) The chief executive of the principal city, or other unit of local government at the affected point, that is named or has been previously named in a qualifying section 401 certificate. For points in Alaska or Hawaii that are named by the Board as eligible points without having been listed on a section 401 certificate, the principal city is the most populous municipality at the point;

(2) The individual or entity with direct supervision over and responsibility for the airport at the eligible point; and

(3) The State agency with jurisdiction over air transportation in the State containing the eligible point. If there is no such State agency, the questionnaire will be sent to the governor of that State.

(b) Within 60 days after receipt of the questionnaire, five copies of the response shall be filed in the Docket Section, unless the Board specifies another date. If no response is received within the period, essential air service for that eligible point may temporarily be set at the minimum level prescribed in section 419(f) of the Act.

(c) Any other interested person may, during the 60-day response period, submit information relevant to the essential air service level of that eligible point by filing in the Docket Section five copies of a document titled with the name of the point involved.

(d) As necessary, the Board may request additional information to supplement the questionnaire.

§ 325.5 Essential air service determinations.

(a) Not later than October 24, 1979, after reviewing all information submitted, the Board will issue determinations of the essential level of air service for eligible points that, on October 24, 1978, were served by not more than one direct air carrier holding a certificate under section 401 of the Act for scheduled service to the point.

(b) The Board will issue a determination of the essential level of air service for a point within 6 months after each of the following events:

(1) It receives notice that service to an eligible point will be reduced to only one carrier that holds a section 401 certificate;

(2) It designates that point as an eligible point under section 419(b) of the Act; or

(3) It conducts a review of essential air service of that point under § 325.6.

§ 325.6 Periodic reviews.

(a) The Board will start a periodic review of essential air service within 1 year of the date of the previous determination of essential air service for eligible points receiving subsidized service, within 2 years of the date of the previous determination for eligible points in Alaska, and within 3 years of the date of the previous determination

for eligible points without subsidized air service.

(b) The review shall be conducted in accordance with the procedures in §§ 325.4, 325.5 and 325.7.

§ 325.7 Appeal of the essential air service determination.

(a) Any person objecting to an essential air service determination may within 60 days after its issuance file in the Board's Docket Section a document titled "Appeal of Essential Service Determination." The appeal shall:

(1) Contain specific objections to the essential air service determination, including support for all such objections;

(2) State how the essential air service determination departs from the guidelines in Part 398 of this chapter or what extraordinary factors justify deviating from those guidelines; and

(3) Describe the level of air service that the appellant believes is essential for that community.

(b) The Board shall appoint an appeal panel of three employees: one from the Bureau of Domestic Aviation, one from the Office of Community and Congressional Relations, and one from the Office of General Counsel.

(c) The three-member panel shall process the appeal and make a recommendation to the Board.

(d) An informal conference may be held, or more information may be requested, before the three-member panel makes its recommendation to the Board.

(e) The Board shall decide the appeal after receiving a recommendation from the three-member panel.

(f) If no appeal is filed within the 60-day period, an essential air service determination will become final, unless stayed by the Board.

(g) Pending the outcome of an appeal, the essential air service for the point involved shall be the level set by the determination issued under § 325.5.

§ 325.8 Informal conferences.

(a) If an appeal raises an issue that cannot be satisfactorily resolved on the basis of written submissions, the Board may order that an informal conference be held.

(b) The informal conference will be conducted by a Board Member or a senior Board employee designated by the Board.

(c) Any interested person may attend the informal conference.

§ 325.9 Oral arguments.

If some appeals raise issues common to several communities so that expression of diverse viewpoints on these issues would help the Board dispose of them, the Board may invite the parties to participate in an oral argument at its offices in Washington, D.C.

§ 325.10 Modification of the designated level of essential air service.

(a) Any person may file with the Board a petition titled "Petition for Modification of Essential Air Service Level," asking to modify the essential air service level at a point.

(b) The petition shall identify the point affected, and specifically state the reasons why the petitioner believes the designated essential level is inadequate. It should contain any facts and arguments that support its requests, and describe the level of essential air service that should be substituted.

(c) Any person may, within 30 days after the filing of a petition for modification, file an answer to that petition titled "Answer to Petition for Modification."

(d) After review, the Board may seek more information and the procedures of §§ 325.5 and 325.7 will be followed.

§ 325.11 Form of documents.

All documents filed under this part shall be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and on their front page state:

(a) The title of the document;

(b) The name of the affected community;

(c) The name, address, and telephone number of a person who can be contacted for further information concerning the subject of the document; and

(d) In the case of a responsive document, the docket number of the document to which it responds.

§ 325.12 Service of documents.

Any person, except one filing individually as a consumer, who files a document under this part, including responses to the questionnaire, shall serve that document upon those listed in § 325.4(a) of this part and upon the following:

(a) The governor of the State in which the eligible point is located;

(b) Each air carrier providing scheduled service to the affected eligible point;

(c) In the case of a responsive document, the one who filed the document to which it responds;

(d) The U.S. Department of Transportation, Office of Air Transportation—Office of the Secretary, Room 10304, 400 7th Street, N.W., Washington, D.C. 20590; and

(e) The U.S. Postal Service, Assistant General Counsel, Transportation Division, Law Department, Washington, D.C. 20260.

§ 325.13 Environmental evaluations and energy information not required.

Notwithstanding any provision of Part 312 or Part 313 of this chapter, a person filing a petition or appeal under this part is not required to file an environmental evaluation or energy information with the application.

§ 325.14 Conformity with Subpart A of Part 302.

Except where they are inconsistent, the provisions of Subpart A of Part 302 of this chapter shall apply to proceedings under this part.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27940 Filed 9-6-79; 8:45 am]

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14 CFR Part 385

[Regulation OR-157; Amendment No. 90, Enactment of Part]

Amendment of Delegation of Authority to the Director, Bureau of Consumer Protection

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 31, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its delegation of authority to clarify that the Director, Bureau of Consumer Protection may terminate investigations under Part 305 of the CAB's Procedural Regulations.

DATES: Effective: August 31, 1979. Adopted: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Craig Weller, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5939

SUPPLEMENTARY INFORMATION: Part 305 of the Board's Procedural Regulations, 14 CFR Part 305, provides for informal, nonpublic investigations to be conducted by the Bureau of Consumer Protection. Such investigations are initiated by an order of the Board, and we have delegated to the Director of the Bureau of Consumer Protection the authority to issue such orders. 14 CFR 385.22(b).

On completion of an investigation, the Director of the Bureau of Consumer Protection is either to close the investigation or to proceed with formal enforcement proceedings or other action (effectively closing the informal investigation), as the circumstances warrant. 14 CFR 305.11. Although the

Director's authority to close an investigation necessarily implies that he issue an order doing so, no specific delegation of authority to issue such an order has existed.

We are now correcting this oversight by amending § 385.22(b) to make clear that the Director of the Bureau of Consumer Protection may issue orders terminating investigations under Part 305. This parallels the Director's delegated authority to issue orders that initiate investigations.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, as follows:

In § 385.22, paragraph (b) is amended so that it reads:

§ 385.22 Delegation to the Director, Bureau of Consumer Protection.

* * * * *

(b) Issue orders initiating and terminating informal nonpublic investigations under Part 305 of this chapter (Procedural Regulations).

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

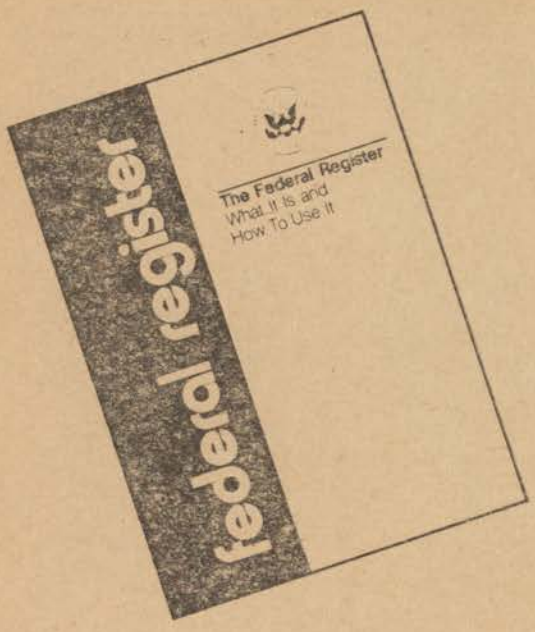
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[FR Doc. 79-27941 Filed 9-6-79; 8:45 am]

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